DOCUMENT RESUME

ED 153 340 EA 010 527

TITLE	Fiscal Year 1978 Annual Program Plan Amendment for Part B of the Education of the Handicapped Act as Amended by Public Law 94-142.
INSTITUTION	Oregon State Dept. of Education, Salem.
PUB DATE	78
NOTE	83p.; Some tables may not reproduce clearly due to small print
EDRS PRICE	MF-$0.83 HC-$4.67 Plus Postage.
DESCRIPTORS	Elementary Secondary Education; Equal Education; Evaluation Methods; *Federal Legislation; Federal State Relationship; *Handicapped Children; Individualized Instruction; Mainstreaming; Private Schools; *Program Development; Special Education; Staff Improvement; State Departments of Education; *State Legislation; State Standards; Student Evaluation
IDENTIFIERS	Education for All Handicapped Children Act

ABSTRACT

This document has been published to fulfill the U. S. Bureau for the Education of the Handicapped's requirements to receive funds under Public Law 94-142. Local education and state agencies involved in the education of handicapped children will refer to this plan for policies and procedures the state will use to implement the requirements of enacted federal and state laws. The plan is submitted by the Oregon Department of Education on behalf of the state as a whole. The document contains information on the educational policy, child identification, individualized education programs, procedural safeguards, least restrictive environment, protection in evaluation procedures, personnel development, participation of private school children, annual evaluation, and monitoring. The appendixes cite the applicable Oregon laws. (Author/MLF)

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FISCAL YEAR 1978 ANNUAL PROGRAM PLAN AMENDMENT

FOR PART B OF THE EDUCATION OF THE HANDICAPPED ACT AS AMENDED BY PUBLIC LAW 94-142

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EA 010 527

DEPARTMENT OF EDUCATION
942 LANCASTER DRIVE NE.
SALEM, OREGON 97310

OFFICE OF THE SUPERINTENDENT
March 21, 1978

MEMORANDUM NO. 32 - 77-78

TO: Local School Superintendents and
Intermediate Education District Superintendents

RE: Policy to Comply With the Provisions of CFR 121a.1 through 121a.754

In order to continue to receive funding under P.L. 94-142, the State Department of Education and local school districts must share the responsibility for compliance with the requirements of this act. As the Department drafts and provides public hearings on Oregon Administrative Rules (OARs) to implement P.L. 94-142, it shall be the policy of the State Superintendent of Public Instruction to strictly adhere to all applicable provisions of CFR 121a.1 through 121a.754 in all special education activities. A copy of that Federal Register, dated August 23, 1977, was mailed to you in September, 1977.

This office is mindful of the comprehensive nature of the new Federal law and its many requirements. The Department is providing technical assistance and training to assist districts with the implementation of this law and intends that all aspects of the State's special education programs achieve full compliance with the requirements of this important act.

Ronald D. Burge

Ronald D. Burge
Deputy Superintendent

FISCAL YEAR 1978
ANNUAL PROGRAM PLAN AMENDMENT
FOR PART B OF THE EDUCATION
OF THE HANDICAPPED ACT
AS AMENDED
BY PUBLIC LAW 94-142

Spring 1978

Oregon Department of Education
942 Lancaster Drive NE
Salem, Oregon 97310

Verne A. Duncan
State Superintendent of
Public Instruction

STATEMENT OF ASSURANCE

Oregon Department of Education

It is the policy of the Oregon Department of Education that no person be subjected to discrimination on the basis of race, national origin, religion, sex, age, handicap, or marital status in any program, service, or activity for which the Oregon Department of Education is responsible. The Department will comply with the requirements of state and federal law concerning nondiscrimination and will strive by its actions to enhance the dignity and worth of all persons.

4538319781000

PREFACE

This Fiscal Year 1978 Annual Program Plan Amendment for Part B of the Education of the Handicapped Act, as amended by Public Law 94-142, has been published to fulfill the U.S. Bureau for the Education of the Handicapped's requirements to receive funds under the Act. Local education and state agencies involved in the education of handicapped children will refer to this plan for policies and procedures the state will use to implement the requirements of enacted federal and state laws. The plan is submitted by the Oregon Department of Education on behalf of the state as a whole.

For further information about the plan and those laws dealing with the handicapped, please call the Special Education Section of the Department here in Salem, 378-3598.

Jesse V. Fasold
Associate Superintendent
Special Education and
Special Schools Division

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SUBMISSION STATEMENT

I, the undersigned authorized official of the State Education Agency of Oregon, hereby submit the following amended Annual Program Plan for Fiscal Year 1978 under Part B of the Education of the Handicapped Act, as amended by Public Law 94-142.

I CERTIFY that the following assurances will be met within the State of Oregon.

1) That the Annual Part B Program Plan under Public Law 93-380 for Fiscal Year 1976-1977 is hereby incorporated by reference into the APP for FY 1978 and that no revisions have been made which have not been submitted to the USOE/BEH and approved.

2) That the State Plan Amendment for FY 1978, along with the EHA State Plan and previous amendments, has been made available to parents, guardians, and other members of the general public at least thirty days prior to the date of submission. The summary of the public comments and action taken are attached as Appendix A.

3) That the attached State Plan amendment for FY 1978 has been adopted by the State Board of Education on June 23, 1977.

4) That the State plan submitted under the provisions of Public Law 93-380, together with the attached amendment to the plan, constitute the basis for the operation and administration of the activities to be carried out in the state under Part B of the Education of the Handicapped Act, as amended by Public Law 94-142.

5) The amended Annual Program Plan for Fiscal Year 1978 was submitted to the Governor on June 3, 1977, to provide 45 days for an opportunity for comment on the relationship of this plan to other state plans and programs for the handicapped in accordance with 45 CFR 100b.15 of Office of Education General Provisions Regulations. The Governor's letter of approval is attached (page 3).

6) The State Education Agency is responsible for assuring that the requirements of P.L. 94-142 are carried out and that each educational program for handicapped children administered within the state, including all programs administered by any other state or local agency, is under the general supervision of the State Education Agency persons responsible for educational programs for handicapped children and that all such programs will meet the education standards of the State Education Agency.

7) Procedures have been established for consultation with individuals involved in or concerned with the education of handicapped children, including handicapped individuals and parents or guardians of handicapped children.

8) Funds received by the State or any of its political subdivisions under any other federal program, including Sections 121 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 241-2), Section 305(b) (8) of that Act (20 U.S.C. 844a(b) (8) or its successor authority, and Section 122(a) (4) (B) of the Vocational Education Act of 1963 (20 U.S.C. 1262(a) (4) (B), under which there is specific authority for assistance for the education of handicapped children, will be used by the state or any of its political subdivisions only in a manner consistent with the goal of providing free, appropriate public education for all handicapped children, except that nothing in this section will limit the specific requirements of the laws governing those federal programs.

9) Control of funds under Part B of the Act and title to property acquired with those funds is in a public agency for the uses and purposes provided in Part B, and a public agency will administer the funds and property.

10) The state will keep such records and afford access to those records as the Commissioner deems necessary to assure correctness and verification of reports and proper disbursement of funds.

11) Funds made available under Part B of the Act will not be commingled with state funds and will be used to supplement and increase the level of state and local funds expended for the education of handicapped children.

12) Consistent with procedures under Section 517 (a) (2) of the Act, the state will adopt necessary fiscal control and fund accounting procedures to assure proper disbursement of, and accounting for, federal funds paid under Part B of the Act, including any of those funds paid to local education agencies.

13) Confidentiality safeguards are being followed in the child identification program and all other aspects of our program as outlined in the Confidentiality Section of the 1976 Amended Annual Program Plan for EHA-B. This Confidentiality Section will be made available to parents, guardians, and other members of the general public upon request.

14) A State Advisory Panel on the Education of Handicapped Children has been appointed by the State Superintendent of Public Instruction, and the composition of the panel will include at least one person representative of each of the following groups: handicapped individuals, teachers of handicapped children, parents or guardians of handicapped children, state and local education officials, and special education programs administrators.

June 25, 1977
Date

Verne A. Duncan
Signature of Chief State School Officer
or person authorized to submit this plan

Verne A. Duncan
typed name

Superintendent of Public Instruction
title

ROBERT W. STRAUB
GOVERNOR

OFFICE OF THE GOVERNOR
STATE CAPITOL
SALEM, OREGON 97310

July 7, 1977

Dale Skewis
Oregon Department of Education
Special Schools and Special Education Division
942 Lancaster Drive, N. E.
Salem, Oregon 97310

Dear Mr. Skewis:

Re: Amended Annual Program Plan
for FY 1978 under Part B,
Education of the Handicapped
Act
PNRS #7706 6 250

Thank you for the opportunity to review your state plan.

This plan was circulated for review among the appropriate state agencies. No significant conflicts with state policies or programs were identified, however, several agencies have made constructive comments. They are enclosed.

I am pleased to add my approval as required by OMB A-95, Part III.

Sincerely,

Governor

RWS:ts
Enclosures (3)

10

August 2, 1977 Oregon

CERTIFICATION OF STATE ATTORNEY GENERAL
OR OTHER APPROPRIATE STATE LEGAL OFFICER
121a.6, Title 45 CFR

I hereby certify that:

1. The State Department of Education
LEGAL NAME OF STATE EDUCATION AGENCY

has authority under State law to submit a State plan pursuant to Part B of the Education of the Handicapped Act (Public Law 91-230, Title VI, as amended), and to administer or supervise the administration of the plan;

2. All plan provisions are consistent with State law.

Will T. Linklt
SIGNATURE

August 2, 1977
DATE

William T. Linklater, Asst. Attorney Gen.
TYPED NAME AND TITLE OF STATE LEGAL OFFI

I. PUBLIC NOTICE AND OPPORTUNITY TO COMMENT

A. PRESUBMISSION

An opportunity for review and comment on the Oregon Annual Program Plan for Fiscal Year 1978 has been provided by public notice in two newspapers which have statewide circulation: The Oregonian and the Oregon Journal (Appendix B). Copies of a draft were distributed to all local school districts and county intermediate education districts to allow the public easy access to the plan.

Two public hearings were held on the plan, notices of which were also published in The Oregonian and the Oregon Journal (Appendix B). The hearings were held on June 1, 1977 at the Lane County IED in Eugene and on June 2, 1977 at the Multnomah County IED in Portland.

Further opportunity for comment has been provided through the Oregon Project Notification and Review System, the State Clearinghouse and the Intergovernmental Relations Division. The State Clearinghouse routed the draft plan to the State Budget Division, Children's Services Division, Educational Coordinating Commission, and the Community Services, Welfare and Vocational Rehabilitation Divisions.

B. POSTSUBMISSION

After the Annual Program Plan for Fiscal Year 1978 is approved by the United States Commissioner of Education, it will be made public by a general mailing to all local school districts, county intermediate education districts, other state agencies, nonpublic agencies, libraries and educational organizations. A public notice will also be placed in The Oregonian and Oregon Journal to notify the public that the plan has been approved and that it is available from the Oregon Department of Education.

II. RIGHT TO EDUCATION POLICY STATEMENT

SECTION I

All handicapped children residing in the State of Oregon have a right to a free appropriate public education. This policy applies to all agencies that provide for the education of handicapped children and to all handicapped children defined in PL 94-142, regardless of the severity of the individual handicap.

The 1977 Oregon Legislature's passage of ORS 343.041 (Appendix C) assures that this policy applies to any state agency, or common or union high school district or intermediate education district.

The first priority for the education of handicapped children focuses on those handicapped children who are not receiving any education; the second priority looks to handicapped children (within each disability) with the most severe handicaps who are receiving some but not all of the needed special education and related services.

The timeline in Oregon for a free appropriate education for all handicapped children (6 through 20) is September 1, 1978. Oregon advocates the goal of providing a free appropriate education for all handicapped children, but present state law and practice do not apply to ages 3 through 5 and age 21 residents in local school districts except on a local school district option basis. It is the policy of the state under Oregon Revised Statutes, ORS 339.115 (Appendix D), that all persons between the ages of 6 and 21 have a right to a free appropriate education. This statute, by practice and according to an Attorney General Opinion, is interpreted to include 6 year old children but exclude 21 year olds.

Those Oregon Revised Statutes and Oregon Administrative Rules applicable to this policy and which provide the basis for the exception in Oregon to the age requirements of PL 94-142 as inconsistent with state law and practice can be found in Appendix D.

Within the age limits of required school attendance, (see ORS 339.010) the Oregon Attorney General has provided an opinion regarding ORS 339.030 (4) which states in part: "The school district may itself provide 'home, hospital, institutional or other regularly scheduled and suitable instruction'; if it does not or cannot, it cannot escape the obligation imposed by ORS 339.030 (4), and must pay the tuition of the child in an institution which does provide such instruction if that is the only way such instruction can be provided for the child. There is no 'out' for the school district; it must meet its obligation to the child under the statute as amended."

Oregon law also provides that a school district board may provide kindergartens for a child in the year immediately prior to enrollment in the first grade. If a school district board makes such provision, then all eligible children resident in the district, including the handicapped, must be provided kindergarten in order for the school district to be in compliance with OAR 581-21-045 (Appendix D).

ORS 336.090 and ORS 336.095 (Appendix D) provide the legal base for district school boards to provide kindergartens at their option.

SECTION 2

Procedures the Oregon Department of Education will undertake in implementing the right to education policy:

Because the State of Oregon assures all handicapped children the right to a free appropriate public education, as cited in various statutes and rules, it is not planned that additional legislation need be employed. All school districts in the state have up-to-date copies of the Oregon Revised Statutes and the Oregon Administrative Rules with which they must comply. State agencies which provide for the education of handicapped children also have copies of the law and rules.

Procedures to be undertaken to implement the right to education policy include:

1. Approval of local school district applications for PL 94-142 funds which must include: (1) a local school board resolution establishing a goal to make available a free appropriate public education for all handicapped children within the jurisdiction of the local district, (2) the establishment of priorities for services to handicapped children, (3) assurance and procedures for locating, identifying and evaluating all handicapped children, (4) assurance of the development of IEPs and (5) a compliance timetable to accomplish full service for all handicapped children as defined in PL 94-142.

2. Monitoring on-site visits to all LEAs at least once every three years.

3. On-site visits to investigate any complaints of noncompliance regarding the education of handicapped children.

4. Oregon Department of Education standardization visits to LEAs.

5. The implementation of Oregon's 1977 ORS 343.041 (Appendix C) requiring all state agencies providing education for handicapped children to be under the general supervision of the Oregon Department of Education. The Governor will write an executive order directing that agencies affected shall enter into cooperative agreements to achieve necessary uniformity in meeting the standards and criteria established by the State Board of Education.

III. FULL EDUCATIONAL OPPORTUNITY GOAL AND TIMELINES

Oregon requires the provision of full educational opportunities for all handicapped children on the same basis as nonhandicapped children. The state has a goal of providing full educational opportunity to all handicapped children from birth through age twenty-one. The full-service goal timeline shall be September 1, 1978 for all handicapped children aged 6-20 inclusive, regardless of the severity of the handicapping condition. An explanation of state law and policy is provided under Section II, Right to Education Policy Statement (page 5).

The provision of full educational opportunity for all handicapped children above and below ages specified in Oregon Revised Statutes shall be on an optional basis for service providers. State statutes do not require a free, appropriate education for children below age six, unless the local school district provides kindergarten education for all children age five.

Oregon does not anticipate any major problem areas in meeting the full educational opportunity goal by 1978. Current statutes require free admission for all persons between the ages of 6 and 21 as well as special education for handicapped children. Further, the 1977 Oregon Legislative Assembly passed ORS 343.041, making the State Superintendent of Public Instruction responsible for the general supervision of all educational programs for handicapped children within the state; including all such programs administered by any state agency, or common or union high school, or intermediate education district.

The state intends to meet facilities, personnel and service needs of handicapped children through biennial legislative appropriations, annual Congressional appropriations for financial assistance to states, and through local tax dollars provided to school districts. The types and numbers of personnel needed to meet the full educational opportunities goal by September 1, 1978, is provided in Table 2C (see page 12). All agencies shall use local, state and federal funds to employ the personnel needed, and to provide the services and facilities required to serve the special needs of handicapped children.

Monitoring progress in meeting facility, personnel and service needs shall be accomplished by: (1) checking the biannual census data to determine progress toward full service, (2) by observing annual applications for PL 94-142 flow-through-funds which shall ask applicants to project their needs to meet the full service goals, and (3) by making on-site visits to determine degrees of compliance. In addition, all the monitoring activities are outlined in Section XVI of this plan.

TABLE 1. – DETAILED TIMETABLE

DATE: September 1, 1977

NAME OF STATE: Oregon

Show the percent (%) of the State's population of handicapped children expected to be receiving full educational opportunities in each school year. In the appropriate cells, *estimate the year you expect all children to be provided full educational opportunities *(full service)*.

HANDICAPPING CONDITIONS	A. AGES 3 THRU 5			B. AGES 6 THRU 17		C. AGES 18 THRU 20					D. AGES 0 THRU 2 ESTIMATE THE YEAR FULL SERVICES ARE EXPECTED TO BE REACHED. SCHOOL YEAR NON-CATEGORIAL
	SCHOOL YEAR 1977-78(%)	SCHOOL YEAR ~~1977-78~~(%) 1978-79	ESTIMATE YEAR* OF FULL SERVICE	SCHOOL YEAR 1977-78(%)	SCHOOL YEAR ~~1977-78~~(%) 1978-79	SCHOOL YEAR 1977-78(%)	SCHOOL YEAR ~~1977-78~~(%) 1978-79	SCHOOL YEAR ~~1977-78~~(%) 1979-80	SCHOOL YEAR ~~1977-78~~(%) 1980-81	ESTIMATE YEAR* OF FULL SERVICE	
a. Mentally Retarded	76	80	1988	85	100	44	100	100	100	1978	1990
b. Hard of Hearing	61	65	1988	60	100	0	100	100	100	1978	
c. Deaf	90	90	1988	88	100	36	100	100	100	1978	
d. Speech Impaired	70	75	1988	73	100	47	100	100	100	1978	
e. Visually Handicapped	62	65	1988	63	100	24	100	100	100	1978	
f. Seriously Emotionally Disturbed	69	70	1988	75	100	26	100	100	100	1978	
g. Orthopedically Impaired	47	50	1988	42	100	49	100	100	100	1978	
h. Health Impaired	90	90	1988	83	100	91	100	100	100	1978	
i. Specific Learning Disability	90	90	1988	86	100	84	100	100	100	1978	

*If these requirements are inconsistent with your State law, or practice, estimate the year you expect to reach full services in these areas.

TABLE 2A. -- STATE PERSONNEL SUMMARY OF ACTUAL NUMBER OF PERSONNEL EMPLOYED DURING THE 1976-77 SCHOOL YEAR FOR SERVICES TO THE 0-21 AGE HANDICAPPED POPULATION

(A)

MANDATED SCHOOL AGE IN THE STATE OF Oregon 7-18

FOR SCHOOL YEAR 1978-79

PERSONNEL	TOTAL (Sum of columns b thru j) (a)	MENTALLY RETARDED (b)	HARD OF HEARING (c)	DEAF (d)	SPEECH IMPAIRED (e)	VISUALLY HANDICAPPED (f)	SERIOUSLY EMOTIONALLY DISTURBED (g)	ORTHOPEDICALLY IMPAIRED (h)	HEALTH IMPAIRED (i)	SPECIFIC LEARNING DISABILITIES (j)
1. Teachers of Special Classes	1130	360	0	22	137	16	85	24	10	476
2. Resource Room Teachers	271	40	10	3	0	8	13	0	5	192
3. Itinerant/Consulting Teachers	158	6	10	3	52	10	4	3	9	61
4. Psychologist	31									
5. School Social Workers	9									
6. Occupational Therapists	6									
7. Home-Hospital Teachers	153									
8. Speech Pathologists	113									
9. Audiologists	6									
10. Teacher Aides	458									
11. Vocational Education Teachers	64									
12. Work-Study Coordinators	21									
13. Physical Education Teachers	46									
14. Recreation Therapists	12									
15. Diagnostic Staff	55									
16. Supervisors	70									
17. Other Non-Instructional Staff	82									
18. TOTAL PERSONNEL	2685									

TABLE 2B. – STATE PERSONNEL SUMMARY OF PROJECTED NUMBER OF PERSONNEL NEEDED TO MEET THE FULL EDUCATIONAL OPPORTUNITIES GOAL DURING THE 1977-78 SCHOOL YEAR FOR SERVICES TO THE 0-21 AGE HANDICAPPED POPULATION

(A) MANDATED SCHOOL AGE IN THE STATE OF Oregon 7–18

FOR SCHOOL YEAR 1978-79

PERSONNEL	TOTAL (Sum of columns b-j) (a)	MENTALLY RETARDED (b)	HARD OF HEARING (c)	DEAF (d)	SPEECH IMPAIRED (e)	VISUALLY HANDI-CAPPED (f)	SERIOUSLY EMOTION-ALLY DISTURBED (g)	ORTHO-PEDICALLY IMPAIRED (h)	HEALTH IMPAIRED (i)	SPECIFIC LEARNING DISABILITIES (j)
1. Teachers of Special Classes	1112	336	0	22	140	12	122	24	11	445
2. Resource Room Teachers	446	98	12	4	15	10	13	0	7	287
3. Itinerant/Consulting Teachers	205	9	12	9	61	13	15	6	10	70
4. Psychologist	55									
5. School Social Workers	31									
6. Occupational Therapists	12									
7. Home-Hospital Teachers	153									
8. Speech Pathologists	146									
9. Audiologists	9									
10. Teacher Aides	738									
11. Vocational Education Teachers	73									
12. Work-Study Coordinators	43									
13. Physical Education Teachers	82									
14. Recreation Therapists	12									
15. Diagnostic Staff	189									
16. Supervisors	92									
17. Other Non-Instructional Staff	82									
18. TOTAL PERSONNEL	2,965									

TABLE 2C. – STATE PERSONNEL SUMMARY OF PROJECTED NUMBER OF PERSONNEL NEEDED TO MEET THE FULL EDUCATIONAL OPPORTUNITIES GOAL DURING THE 1978-79 SCHOOL YEAR FOR SERVICES TO THE 0-21 AGE HANDICAPPED POPULATION

(A)

MANDATED SCHOOL AGE IN THE STATE OF Oregon 7–18

FOR SCHOOL YEAR 1978-79

PERSONNEL	TOTAL (Sum of columns b-j) (a)	MENTALLY RETARDED (b)	HARD OF HEARING (c)	DEAF (d)	SPEECH IMPAIRED (e)	VISUALLY HANDI-CAPPED (f)	SERIOUSLY EMOTION-ALLY DISTURBED (g)	ORTHO-PEDICALLY IMPAIRED (h)	HEALTH IMPAIRED (i)	SPECIFIC LEARNING DISABILITIES (j)
1. Teachers of Special Classes	1033	326	0	22	128	12	110	24	11	400
2. Resource Room Teachers	565	125	13	4	12	10	15	0	8	378
3. Itinerant/Consulting Teachers	240	12	14	9	80	13	24	6	15	67
4. Psychologist	55									
5. School Social Workers	37									
6. Occupational Therapists	34									
7. Home-Hospital Teachers	165									
8. Speech Pathologists	223									
9. Audiologists	9									
10. Teacher Aides	769									
11. Vocational Education Teachers	88									
12. Work-Study Coordinators	55									
13. Physical Education Teachers	82									
14. Recreation Therapists	18									
15. Diagnostic Staff	214									
16. Supervisors	113									
17. Other Non-Instructional Staff	82									
18. TOTAL PERSONNEL	3792									

IV. POLICY ON PRIORITIES

A. Oregon's first priority will be to serve handicapped children ages 6 to 21 who are not receiving an education. A second priority concerns severely handicapped children within each disability, who are receiving some but not all of their special education and related service needs.

B. During 1976-77, forty-nine local school district projects were funded with $1,500,000 of federal Title VI-B money. These projects were designed to serve handicapped children identified in both the first and second priorities for Title VI-B funds.

In 1977-78, approximately $1,850,000 of PL 94-142 funds will flow through to all the local school districts that generated funds through the state's handicapped child census and the funding formula provided in PL 94-142. Local school districts will apply for an allocated amount of funds based on the number of handicapped children being served in the local district. As a part of the application, each school district will certify the number of first-priority and second-priority children that will be served. Funds will not be made available for second-priority children until the state has assurance that all first-priority children are being served.

Children Served and Service Needs in Priority Areas.

Table 3 (see page 16) lists 59 children aged 6 to 21 identified by local school districts as first-priority children. These are children within the jurisdiction of the local school district who were not receiving any education during the school year 1976-77. As a result of obligations required by PL 94-142 these handicapped children have been located, identified and evaluated and have been placed in a special education program during this current 1977-78 school year. Local educational agencies are also providing special educational services to the age groups three to five who were identified as first-priority children, although this service is not required under Oregon law.

As of October 1977, the state is not aware of any handicapped children aged 6 through 20 who are not receiving any education. Therefore, it has been determined that second-priority projects directed toward the underserved are the best and appropriate use of the state's portion of PL 94-142 funds that may be used for direct and support service.

Certain populations of handicapped children in Oregon: the autistic, the blind, the deaf, the severely and profoundly mentally retarded, and cerebral palsy children, have been determined to be in greatest need of direct support service. These children, except for Title VI-B funding in 1976-77, would have been classified as first-priority children this year.

The table on page 15 has been developed to show the specific programs, services and activities to be provided in 1977-78 through direct funding with the state's portion of the anticipated PL 94-142 grant award. The table also shows additional financial resources from the state and local levels to be used to support these programs.

C. The Oregon Department of Education has developed a statewide computer system to determine the number of children receiving an inadequate education. Data shows the location and number of handicapped children, by handicapping condition, who are receiving an inadequate education.

In addition to this computer data, the Department will also include, as part of the LEA application for PL 94-142 flow-through funds, a requirement to provide information on the number of handicapped children who: (1) are having all of their educational needs met, (2) are not receiving any education or (3) are having some but not all of their educational needs met. Table 3 provides data on children served and service needs in priority areas, as drawn from the LEA reports.

D. The Oregon Department of Education will monitor the policy on priorities by reviewing LEA applications for flow-through funds and shall not approve any application without certification that first-priority children are being served. After all first-priority children are assured of a free appropriate education, LEAs will be allowed to provide additional services to second-priority children. The SEA will also monitor the biannual handicapped child census to determine whether or not all first-priority children are being served. Special on-site visits will be made to any agency against which a complaint is registered concerning noncompliance with priorities. All monitoring activities outlined in Section XVI of this plan shall be employed.

Programs, Services and Activities for Priority II Children in Oregon

Specific Programs	Services	Activities
1. Three regional programs for the blind and visually handicapped in Jackson, Baker and Coos Counties	Itinerant services for children and teachers Instructional aids and materials	• Direct special instruction • Consultant assistance for regular classroom teachers • Instructional media service
2. Two regional programs for the deaf and hard of hearing in Malheur and Marion counties	Itinerant service by a specialist and hearing aid materials	• Direct special instruction • Consultants for regular class teachers • Hearing and other aids
3. Two programs for autistic children in Portland and Roseburg	Highly structured programmed instruction	• One-on-one intensified instruction with specialized materials and techniques
4. A program for severely neurologically impaired and seizure disorders at Good Samaritan Hospital	Diagnosis, evaluation and direct instructional service	• Educational direct instruction • Parent training • Medical support
5. A program for severely and profoundly handicapped at Providence Children's Nursing Center	Assessment and individual plan for a service module	• Coordinated efforts of medical, education, speech and physical therapy to provide a full-service program for this type of child • Equipment and materials • Parent participation

Resources For Projects Funded Directly By The SEA

Specific Program Number	Federal Funds	State Funds	Local Funds	Total Funds
1	$ 188,000	$ 40,000	$ 45,000	$ 273,000
2	58,000	20,000	34,000	112,000
3	120,000	60,000	60,000	240,000
4	37,000	7,000	20,000	64,000
5	71,000	30,000	18,000	119,000
TOTAL	$ 474,000	$ 157,000	$ 177,000	$ 808,000

TABLE 3. – CHILDREN SERVED AND SERVICE NEEDS IN PRIORITY AREAS

STATE: Oregon

DATE: February 1, 1977

1976-1977

HANDICAPPING CONDITIONS	RECEIVING AN EDUCATION WHICH MEETS ALL EDUCATIONAL NEEDS* (1)			1ST PRIORITY NOT RECEIVING AN EDUCATION (2)			2ND PRIORITY, SEVERELY HANDICAPPED BEING EDUCATED, BUT REQUIRING ADDITIONAL SPECIAL EDUCATION AND RELATED SERVICES* (3)		
	3 thru 5	6 thru 17	18 thru 21	3 thru 5	6 thru 17	18 thru 21	3 thru 5	6 thru 17	18 thru 21
Mentally Retarded	307	5556	274	60	13	14	113	1218	392
Hard of Hearing	33	408	0	1	1		34	461	18
Deaf	66	426	9				8	74	17
Speech Impaired	1230	11035	7	9			740	5245	9
Visually Handicapped	54	349	6	1			44	383	21
Seriously Emotionally Disturbed	61	2675	24	4	10	1	51	2090	75
Orthopedically Impaired	114	509	8	1		1	145	867	161
Health Impaired	67	475	3		4		686	3306	330
Specific Learning Disabilities	264	19289	47	14	15		71	5200	41
TOTAL	2196	40722	378	90	43	16	1892	18844	1064

*(1) - Include only handicapped children who are having all of their educational needs met.

*(3) - Include those handicapped children who are not having all of their educational needs met.

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V. CHILD IDENTIFICATION

A. The State of Oregon has established a policy that all children who are handicapped, regardless of the severity of their handicaps, and who are in need of special education and related services be identified, located and evaluated.

1. The agency responsible for statewide coordination of the planning and implementing of the child identification, location and evaluation efforts is the Oregon Department of Education.

On October 1 and February 1 of each year, a handicapped child census is conducted to carry out the policy of identification and location. Data on handicapped children is collected statewide and placed into a computer for easy retrieval of information needed in efforts to meet the full-service goal.

The Department of Education supplies forms to all participating state, local and private agencies. Data is recorded regarding the birthdate of the handicapped child, the name in code, handicapping conditions, service provider, local school district residence, the services provided and other information necessary for carrying out the handicapped child identification policy. The raw data is then keypunched to make available by computer a data bank of information, to be used for the purposes for which the information is collected.

2. Other agencies that are participating in the handicapped child census effort are listed below.

Agencies Participating In The Handicapped Child Census

Albertina Kerr Center for Children
Boys and Girls Aid Society
Cedar Hills Psychiatric Hospital
Child Adolescent Service Treatment Unit
Child Development Rehabilitation Center, Crippled Children's Division
Child Neurology Clinic, Good Samaritan Hospital
Children's Farm Home School
Children's Hospital School, Eugene
Children's Services Division
Christie School
Columbia Gorge Rehabilitation Center
Columbia Park Hospital School
County Juvenile Departments
Crippled Children's Division, Regional Service, U of O
Crippled Children's Division, Southern Oregon Regional
Crook County Preschool for the Handicapped
Dammasch Hospital Classes
Deschutes County Opportunity Center
Deschutes Preschool for Developmental Disabilities
Eastern Oregon Hospital and Training Center

Edgefield Lodge
Eugene Regional Facility for the Blind
Eugene Regional Facility for the Deaf
Eugene Speech and Hearing
Fairview Hospital and Training Center
Grande Ronde Child Center
Headstart
Hillcrest School
Holladay Center for Crippled Children
Horizon House (Clackamas County)
JANIS Project
Kerr Center for Handicapped Children
Lane Opportunity Center
MacLaren School
Malheur County Child Develoment Center
Mental Health Division
Mid-Columbia Children's Treatment Center
Mid-Valley Activity Center
Oregon State Hospital Classes
Oregon State School for the Blind
Oregon State School for the Deaf
Pacific Treatment Center
Parkdale Child Development Center
Parry Center
Pearl Buck Center
Plowshare School, Inc.
Portland Center for Speech and Hearing
Portland Habilitation Center
Portland Regional Facility for the Blind
Portland Regional Facility for the Deaf
Portland State University's Autistic Children's Program
Poyama Land
Private and Parochial Schools
Public Welfare Division
Rogue Valley Opportunity Center
Russelville School for Handicapped Children
Shangri-La
Shriner's Hospital for Crippled Children
Southern Oregon Child Study and Treatment Center
Southern Oregon Easter Seals Preschool
Southern Oregon Regional Facility for Education of the Deaf
Southern Oregon Regional Facility for Visually Handicapped
St. Mary's Home for Boys
Teaching Research
The Child Center, Eugene
Treasure Valley Opportunity Center
Tucker-Maxon Oral School
U of O Center on Human Development
U of O Medical School Hospital
Villa Gerard
Villa St. Rose
Vocational Rehabilitation Division
Waverly Children's Home
Westside School
White Shield Home School
Woodland Park Hospital
Wynne Watts High School

3. The Oregon handicapped child census, conducted on October 1, 1975 and February 1, 1977 has been completed. The data from the census is the most complete and comprehensive that the state has ever had. The census data collection instrument has been evaluated by representatives of participating agencies and has been modified for use in 1977-78 to more accurately reflect information that is needed to meet the state's policy on child identification.

4. Activities for handicapped child identification for the forthcoming year will constitute a continuation of the data bank system currently in use. The responsible agency will continue to be the Oregon Department of Education, with timelines of October 1, 1977 and February 1, 1978 for data retrieval. Expected outcome is that all handicapped children residing in the state will be identified and that the state will have a practical method of determining which children are currently receiving needed special education and related services and which children are not. Financial resources for the census will be provided through PL 94-142 state administrative funds, and human resources to conduct the census will be current from the agencies identified in #2 (see page 17).

5. Monitoring of the child identification procedures will be accomplished by one of the PL 94-142 specialists on the staff of the Oregon Department of Education. It will be the responsibility of this person to work with all information sources and computer people to assure effectiveness of the data bank system and its ability to provide needed information concerning the kinds and numbers of handicapped children that have been identified, located and evaluated. The state will use a portion of its funds to help establish evaluation centers for the diagnosis and assessment of handicapping conditions. In addition, the state will approve LEA applications for PL 94-142 flow-through funds that will be used for handicapped child evaluation.

6. The method used by the state to determine which children are currently receiving special education and related services and which are not receiving such services is the data bank resulting from the Oregon Handicapped Child Census. A computer run tells the state not only the number of handicapped children who are and who are not receiving services, but also the residences and school districts of these children. Local school districts will be required to provide services to first-priority children before any educational programs are provided for second-priority children.

7. As described above, Oregon's child identification procedures are statewide and ongoing.

VI. INDIVIDUALIZED EDUCATION PROGRAMS

A. State Policy on Individualized Education Programs

It is state policy that each local school district or intermediate education district in the state will maintain records of the individualized education program (IEP) for each handicapped child; will establish or revise (whichever is appropriate) the IEP for each handicapped child at the beginning of each school year; and will then review and (if necessary) revise its provisions at least annually. This general policy statement requires the following for local school and intermediate education districts:

1. IEPs will be developed and revised at the beginning of each school year and reviewed and revised at least annually.

2. The LEA is responsible for initiating and conducting IEP planning conferences.

3. Parents will be afforded an opportunity to participate in the planning conference at a mutually agreed upon time and place and will be afforded alternative solutions should they be unable to attend. Procedures shall be developed for providing sufficient documentation of attempts to arrange a mutual setting to allow the conference to occur without parents. Provision for interpreters or other facilitators for parental participation in the case of a communication barrier on the part of the parent shall be made.

4. Planning conferences will be conducted within the first thirty days of the child's attendance or within thirty days of determination of the child's eligibility for special education.

5. The planning conferences shall include but not be limited to:

   (a) A representative of the local or intermediate education agency.
   (b) The child's teacher(s).
   (c) One or both parents.
   (d) The child (when appropriate).
   (e) Other individuals, at the discretion of the parent or agency.

6. The individualized education program (IEP) shall include:

   (a) A statement of the child's present level of educational performance.
   (b) A statement of the annual goals describing anticipated behavior to be achieved, based on the child's unique needs.
   (c) A statement of the short-term instructional objectives.

(d) A statement of the special education services and instructional materials to be provided, including special education and related services required to meet the child's unique needs.

(e) A description of the extent to which the child will participate in regular education programs.

(f) The projected date for the initiation and the anticipated duration of service.

(g) Appropriate objective criteria, evaluation procedures and schedules for determining on at least an annual basis whether the instructional objectives are being achieved.

(h) A list of individuals responsible for implementing the IEP.

7. The LEAs shall establish policies for developing, maintaining and evaluating individualized education programs for children placed in private schools by the LEAs which must include:

(a) Provisions for presence of teacher or private school representatives at planning conference, or alternative for physical presence.

(b) Provisions for the LEA to have final responsibility for the development of the individualized education program with option to delegate to the private school.

B. Compliance and Monitoring

1. Oregon Administrative Rules 581-15-064 through 581-15-069 (Appendix F) have been promulgated to require compliance by all agencies to develop individualized education programs for all handicapped children. Public hearings on the rules were held from October 24, 1977 through November 2, 1977 at six locations around the state. The State Board of Education approved these rules at its December 16, 1977 meeting.

2. Monitoring of the requirement to establish an individual education program for each handicapped child will be accomplished by making on-site visits to agencies providing education for handicapped children. A monitoring checklist for adequate IEPs will be used during the on-site visit. In addition, all the monitoring activities outlined in Section XVI of this plan shall be employed.

VII. PROCEDURAL SAFEGUARDS

A. State Policy on Procedural Safeguards

1. Whenever a local or state agency proposes to initiate or change (or refuses to initiate or change) the identification, evaluation or educational placement of a child, or an agency refuses the provision of a free appropriate public education to a child, a written prior notice to the parents or legal guardians of the handicapped child shall be made. The written notice must include the following:

   (a) A detailed description of the action proposed or refused by the agency, an explanation of why the agency proposes or refuses to take the action, and a description of any options the agency considered and reasons why those options were rejected.

   (b) A description of any tests, reports or evaluation procedures upon which the action is based.

   (c) A detailed description of the right of parents to obtain a due process hearing if there are objections to the proposed or refused action, the right of parents to challenge the proposed or refused action, and the right to obtain an independent evaluation of the child. A list of public and private agencies from whom evaluations may be obtained shall also be provided to the parent.

   The written notice shall use common understandable language. It shall be in the native language of the parent unless it is clearly not feasible to do so. If the native language or other mode of communication of the parent is not a written language, the state or local education agency shall assign a translator to the parent. The translator shall assure the agency that the parent understands the content of the notice and shall provide written evidence of same.

2. Agencies shall obtain parental consent prior to: the initiation of formal evaluation procedures, the disclosure of confidential information to anyone other than officials of participating agencies, the use of information for purposes other than those previously specified by the parent, or the initial placement of a handicapped child in a program providing special education and related services.

3. Local and state agencies maintaining records will provide parents with an opportunity to examine all records concerning their child with respect to: identification, evaluation and educational placement of a child, and the provision for a free, appropriate public education of a child.

4. Agencies shall afford parents an opportunity for an impartial due process hearing if the parent objects to proposed actions by the agency to:

   (a) Initiate or change the identification, evaluation or educational placement of a child.
   (b) Deny the provisions of a free, appropriate education.
   (c) Initiate formal evaluation procedure.
   (d) Disclose confidential information to anyone other than officials of participating agencies.
   (e) Use information for purposes other than those previously specified by the parent.

This general policy is further detailed to require agencies to:

   (a) Prohibit an employee or officer of the involved agency or any person having personal or professional interest in the hearing from conducting such hearing.

   (b) Be responsible for conducting the hearing if it is the agency that proposed the action or refused action, and the parent objects.

   (c) Provide for the rights of parents in the hearing, including: the right to be accompanied and advised by counsel or other person with special knowledge or training with respect to the problems of handicapped children; the right to present evidence and confront, cross-examine and compel witnesses to attend the hearing; the right to a verbatim record of the hearing; and the right to written findings of facts and decisions.

   (d) Afford parents the opportunity to appeal the hearing officer's decisions to:

      (1) The State Superintendent of Public Instruction (if the initial hearing was held at the local level)

      (2) Civil Court

   (e) Commence and complete hearings and reviews which are consistent with fair consideration of the issues involved as quickly as possible, but not later than 45 days after receipt of a complaint, unless the parties agree to an extension. The hearings and reviews are to be conducted at a time and place which is reasonably convenient to the parents and child involved.

   (f) Provide (unless otherwise agreed upon between the agency and parents) that the child will remain in the present placement until completion of the proceedings; or, if the hearing involves initial admission to public school, the child will, with the consent of the parent, be placed there until completion of proceedings.

   (g) Insure impartiality.

5. If the parents or guardians are not known, unavailable or the child is a ward of the state, the educational agency responsible shall assign an individual (not to be an employee of the state or local educational agency involved in the education or care of children) to act as a surrogate for the parents or guardians. In selecting the surrogates, the LEA should make a presumption in favor of relatives of the child. Further, persons selected as surrogates shall:

   (a) Have no other vested interest that would conflict with their primary allegiance to the child they represent.

   (b) Be committed to personally and thoroughly acquaint themselves with the child and the child's educational needs.

   (c) Be familiar with the educational system within the state.

   (d) Not be an employee of the state or local education agency.

B. The Oregon Department of Education has promulgated Oregon Administrative Rules according to the state's Administrative Procedures Act to establish standards for procedural safeguards. Either by agreement between agencies or by law, these administrative rules will be complied with by local school districts and other state agencies which have the responsibility of educating handicapped children. A copy of the proposed OAR 581-15-098 dealing with procedural safeguards and surrogates is included in Appendix G.

The Oregon Department of Education will conduct on-site monitoring visits to agencies to determine compliance with the policies on procedural safeguards. All complaints regarding noncompliance to procedural safeguards shall be followed-upon and corrective action will be taken. In addition all of the monitoring procedures outlined in Section XVI will be employed.

VIII. LEAST RESTRICTIVE ENVIRONMENT

A. To the maximum extent appropriate, handicapped children, including children in public or private institutions or other care facilities, shall be educated with children who are not handicapped. Special classes, separate schooling or other actions which remove handicapped children from the regular educational environment shall occur only when the nature or severity of the handicap is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

The Oregon Department of Education subscribes to the philosophy that handicapped children have the right to be educated with their peers, unless clear evidence is available that partial or full removal from a regular classroom is necessary. An individual education program with specific goals shall be established when a handicapped child is assigned to a special program. When these specific educational goals are met the child shall be returned to the regular classroom.

Every LEA should provide a variety of program alternatives to meet the needs of each handicapped child.

Alternatives are prescribed in ORS 339.030 (4) for children who cannot attend school. This law states: "Upon determination pursuant to criteria of the State Board of Education that a child is suffering from physical or mental illness or disease of such severity as to make his presence in a school facility or his travel to and from such facility impossible or dangerous to his health or the health of others, the public schools shall provide the child either home, hospital, institutional or other regularly scheduled and suitable instruction meeting standards of the State Board of Education unless such child is receiving suitable instruction in a state or regional facility or institution" (Appendix E).

Alternatives or levels of service available to handicapped children include special programs within the school district and those provided through the intermediate education district, home instruction, hospital care and instruction, regional facilities or institutions, and contracts with private shcools providing education for handicapped children.

1. Table 4, "Least Restrictive Environment," has been completed to show the continuum of alternative placements available in the State of Oregon and the actual placement of handicapped children in the various placement alternatives. This data was gathered from LEA applications which provided information on the various placements being made at the local level.

2. It is not anticipated that major problem areas will be encountered in making education placements in the least restrictive environment available to meet the needs of handicapped children.

TABLE 4. – LEAST RESTRICTIVE ENVIRONMENT

(Placement and number of handicapped children in each setting for school year 1976-1977)*

STATE: Oregon

DATE: 2/1/77

DISABILITY	REGULAR CLASS (a)									TOTAL RECEIVING SPECIAL EDUCATION IN REGULAR CLASS			TOTAL NEEDING PLACEMENT IN REGULAR CLASS	SEPARATE CLASS (b)								
	REGULAR CLASS WITH INDIRECT SERVICES WITHIN REGULAR CLASS (1)			REGULAR CLASS WITH DIRECT SERVICES AND INSTRUCTION WITHIN REGULAR CLASS (2)			REGULAR CLASS WITH RESOURCE ROOM SERVICES (3)			(4)			(5)	SELF CONTAINED SPECIAL CLASSROOM WITH PART-TIME INSTRUCTION IN A REGULAR CLASS (6)			SELF CONTAINED SPECIAL CLASS FULL-TIME ON A REGULAR SCHOOL CAMPUS (7)			SELF CONTAINED SPECIAL CLASS IN A SPECIAL PUBLIC DAY SCHOOL FACILITY (8)		
	3 thru 5	6 thru 17	18 thru 21	3 thru 5	6 thru 17	18 thru 21	3 thru 5	6 thru 17	18 thru 21	3 thru 5	6 thru 17	18 thru 21	3 thru 21	3 thru 5	6 thru 17	18 thru 21	3 thru 5	6 thru 17	18 thru 21	3 thru 5	6 thru 17	18 thru 21
Mental Retardation										241	2955	143	116									
Hard of Hearing										34	287		0									
Deaf										12	217	3410	3									
Speech Impaired										1263	3496	15	0									
Visually Handicapped										43	268		2									
Seriously Emotionally Disturbed										82	2397		31									
Orthopedically Impaired										159	293	3	0									
Health Impaired										271	189		0									
Specific Learning Disability										2025	9023	34	0									
TOTAL										4130	9125	3605	152									

NOTE: Data reported in columns (5), (10), (15), and (19), concerning needed services will be translated into facility projections by the U.S. Office of Education

*Placement refers to the primary placement of the handicapped child as determined by the Individualized Education Program.

TABLE 4. – LEAST RESTRICTIVE ENVIRONMENT *(Continued)*

DISABILITY	TOTAL RECEIVING SPECIAL EDUCATION IN SEPARATE CLASS (9)			TOTAL NEEDING PLACEMENT IN SEPARATE CLASS (10)	SEPARATE SCHOOL FACILITY (c)									TOTAL RECEIVING SPECIAL EDUCATION IN SEPARATE SCHOOL FACILITIES (14)			TOTAL NEEDING PLACEMENT IN SEPARATE SCHOOL FACILITIES (15)	OTHER EDUCATIONAL ENVIRONMENTS (d)						TOTAL RECEIVING SPECIAL EDUCATION IN OTHER EDUCATIONAL ENVIRONMENTS (18)			TOTAL NEEDING PLACEMENT IN OTHER EDUCATIONAL ENVIRONMENTS (19)
					SELF CONTAINED SPECIAL CLASS IN PRIVATE DAY SCHOOL FACILITY (11)			PUBLIC RESIDENTIAL SCHOOL FACILITY (12)			PRIVATE RESIDENTIAL SCHOOL FACILITY (13)							HOSPITAL PROGRAMS (16)			HOMEBOUND (17)							
	3 thru 5	6 thru 17	18 thru 21	3 thru 21	3 thru 5	6 thru 17	18 thru 21	3 thru 21	6 thru 17	18 thru 21	3 thru 5	6 thru 17	18 thru 21	3 thru 5	6 thru 17	18 thru 21	3 thru 21	3 thru 5	6 thru 17	18 thru 21	3 thru 5	6 thru 17	18 thru 21	3 thru 5	6 thru 17	18 thru 21	3 thru 21
Mental Retardation	183	3245	128	17										2	13		1							12	76		0
Hard of Hearing	12	6		0											3		0							3			0
Deaf														88	275		2							3			0
Speech Impaired	18	314		0																				3	27		0
Visually Handicapped		24		1											21		0							12	15		0
Seriously Emotionally Disturbed	6	933	27	6											31	61	3								192		0
Orthopedically Impaired		189		0										76	381	3	0								18		0
Health Impaired																									226		0
Specific Learning Disability	15	586		0											6		0								37		0
TOTAL	234	5297	155	24										166	730	64	6							33	591		0

B. The procedure used by the Oregon Department of Education to implement the least restrictive environment policy and requirement is the promulgatation of Oregon Administrative Rules. Each agency shall provide a variety of program and placement alternatives and shall consider which program is least restrictive for each individual handicapped child. The rules were a subject of statewide hearings between October 24 and November 2, 1977, and were approved by the State Board of Education at its regular December 1977 meeting. A copy of the rules are provided in Appendix H.

1. The rules shall apply to local school districts and by interagency agreement shall apply to all agencies which have responsibility for the education of handicapped children. The Governor's Executive Order (EO-77-22) directing cooperative agreements with the Department of Education is included in Appendix D along with the agreements.

2. Monitoring activities that will assure compliance with the policy on "least restrictive environment," may be found in Section XVI of this plan. During site visits, it will be the responsibility of the monitor to review individual education programs of handicapped children. A review of the IEP and discussion with appropriate personnel should reveal:

   (a) Whether or not each handicapped child's educational placement is individually determined and if such determination is done at least annually

   (b) Alternative settings that the agency had considered for placement of the child

   (c) That except for the requirement of the IEP, the child is being educated in the school which that child would normally attend if not handicapped

   (d) That efforts to assure that implementation of the least restrictive environment provision will not produce a harmful effect on the child or reduce the quality of service required.

IX. PROTECTION IN EVALUATION PROCEDURES (NONDISCRIMINATORY TESTING)

A. The state has developed OAR 581-15-072 (Appendix I) on evaluation procedures; it was the subject of hearings throughout the state from October 24, 1977 to November 2, 1977 and was approved by the State Board of Education at its regular meeting December 16, 1977.

The rule establishes the policy for Oregon to insure that testing and evaluation materials and procedures used for the purpose of evaluation and placement of handicapped children are selected and administered so as not to be racially or culturally discriminatory. The rule requires procedures and testing materials used for evaluating handicapped children to be in conformance with Section 612(5)(C) of PL 94-142. The Oregon procedures require that:

1. No single test shall be used as the sole criterion for placement.

2. A formal evaluation must occur prior to any action with respect to: (a) the initial placement or denial of placement of a handicapped child into a special education program, or (b) the transfer or denial of transfer of a child from a special education program to full time regular class placement.

3. Evaluation materials are administered in the child's native language unless clearly not feasible.

4. Evaluation materials have been properly validated.

5. Evaluation materials adopted must have been recommended by their producer for a specific purpose, administered in conformance with the instructions provided by their producer, and administered by certified personnel.

6. Adopted evaluation materials must be tailored to assess specific areas of educational need, not merely those which are designed to provide a single general intelligence quotient.

7. Evaluation materials administered for a child with impaired sensory, manual or speaking skills must yield results which accurately reflect the child's aptitude or achievement level.

8. Data from sources other than achievement tests must be gathered and considered.

9. Interpretation of evaluation data and determination of a child's educational placement must be made by a team knowledgeable about the child, the meaning of the evaluation results, the placement options, and the personnel available to provide appropriate education and related services.

10. If evaluation data shows the child does not need instruction in a special setting, the child will not be placed outside the regular instructional setting.

11. Any changes in the child's special education placement will be based on: (a) the child's current individualized education program, (b) any other information relating to the child's current educational performance and (c) existing formal evaluation data on the child which is not more than two (2) years old.

12. Reevaluation must include: (a) revision of the individualized education program periodically, but not less than annually; and (b) that a formal evaluation of the child, based on above procedure, is conducted at least every three years or whenever conditions warrant, as well as at the request of the child's parents or teachers.

B. Monitoring of the nondiscriminatory evaluation policy and procedures shall be accomplished during on-site visits to agencies responsible for conducting evaluations of handicapped children. Each of the twelve items composing the state policy on nondiscriminatory testing and evaluation procedures will be checked. The SEA will also follow up on any complaints received concerning noncompliance with the policy and procedures. All the monitoring procedures outlined in Section XVI of this plan shall be employed.

X. COMPREHENSIVE SYSTEM OF PERSONNEL DEVELOPMENT

Inservice Plan

Oregon's inservice plan for 1977-78 will emphasize training of personnel responsible for the implementation of PL 94-142 to help them learn the requirements of the act. In subsequent years, the emphasis will shift to assisting staff, particularly regular education staff, to acquire the knowledge, skills and attitudes necessary to carry out the purposes of the act more effectively. A third emphasis will then be evolved--the development of a wider range of alternatives for education of the handicapped. Concurrent with training in these areas, other inservice activities related to the act will be provided by existing training institutions, by the SEA and by local districts. However, the SEA will allocate the major part of its resources to supplying training in the above-named emphasis areas where other agencies are not addressing those needs.

During 1976-77, the SEA developed a manual of recommended procedures for the location, identification and evaluation of handicapped children, and the development of IEPs and placement procedures for such children. This manual has been field tested in six school districts. Changes suggested by these pilot districts and modifications necessitated by changes in the regulations for PL 94-142 have been made. A revised edition of the manual is now available. Inservice using the material in this manual will be one means of increasing knowledge of requirements of the act.

A needs assessment completed early in school year 1977-78 surveyed the administrators and special education directors of 375 LEAs regarding their most urgent inservice needs related to PL 94-142. A summary of the results is found in Table A.

TABLE A

INSERVICE NEEDS AS PERCEIVED BY ADMINISTRATORS AND SPECIAL EDUCATION DIRECTORS

INSERVICE TOPICS	NUMBER OF RESPONDENTS RANKING THIS TOPIC: 1st	2nd	3rd	4th	5th	6th	7th
Individualized Education Programs	87	22	10	4	2	0	0
Due Process/Procedural Safeguards	29	25	26	6	4	4	0
Least Restrictive Environment	15	27	21	13	4	3	1
Priorities (Served/Unserved)	6	18	16	14	13	4	4
Nondiscriminatory Testing	6	8	12	7	11	14	7
Attitudes Toward the Handicapped	3	4	8	4	9	14	15
Surrogate Parents	1	5	3	20	9	7	1

The number of respondents who ranked each topic first, second or third gives a clearer picture of the relative priorities:

Individualized Education Programs	119
Due Process/Procedural Safeguards	80
Least Restrictive Environment	63
Priorities (Served/Unserved)	40
Nondiscriminatory Testing	26
Attitudes Toward the Handicapped	15
Surrogate Parents	9

The needs assessment also requested respondents to prioritize the delivery system preferred for inservice training. The results are summarized in Table B.

TABLE B

DELIVERY SYSTEMS PREFERRED BY ADMINISTRATORS AND SPECIAL EDUCATION DIRECTORS

DELIVERY SYSTEM	NUMBER OF RESPONDENTS RANKING THIS SYSTEM: 1st	2nd	3rd	4th	5th
Programmed Modules	54	20	14	5	5
1-2 Day Workshops	35	28	11	13	1
Regional Seminars	24	13	19	15	9
Consultants	14	28	20	16	2
Credit Courses	5	7	10	4	30

The total number of respondents who ranked each delivery system as either their first or second choice gives a clearer picture of the system desired:

Programmed Modules	74
1-2 Day Workshops	63
Regional Seminars	47
Consultants	42
Credit Courses	12

As a result of this needs assessment, an inservice plan for 1977-78 has been prepared (Table C). Some training modules are being developed by the Center for Program Coordination at the Department of Education; other services will be contracted, with public and private training institutions eligible for contract awards.

TABLE C

1977-78 INSERVICE PLAN

Area of Training	Content/Nature	Target Group(s)	Scope	Staff Source	Funding Source	Time Frame
Requirements of PL 94-142	Overview of the law/programmed Modules	LEA administrators (indepth treatment) All staff (survey) All support personnel (survey)	Local	Contract; SEA	Part B; district inservice	Year-round
Individual Education Program	Writing and implementation of IEPs; procedures/workshops	Spec. Ed. Directors (indepth treatment) Regular Education Teachers (indepth treatment on use of IEPs)	Regional	SEA; LEAs; Contract	Part B; district inservice	Nov-Dec
Due Process	Procedural safeguards; related OARs/programmed modules	LEA administrators (indepth treatment) Spec. Ed. Directors (survey)	Local	SEA; agreement with other state agencies	Part B; district inservice	Jan-Feb
Duties of Hearings Officer	Requirements of federal & state law; hearing procedure/workshops	Potential Hearings Officers (indepth)	Regional	SEA; agreement with other state agencies	Part B	March-April

Evaluation of the inservice training program has several components. Training units will be competency-based. Participants will demonstrate their attainment of the stated competencies and the effectiveness of the techniques used will be evaluated on that basis. Participants will also evaluate the training offered immediately upon completion and again after several months. These evaluations will be used to modify the training sessions as necessary.

Long-term evaluation is based on the premise that children will be better served by personnel who are better prepared to fulfill the requirements of the Act. As a part of the comprehensive system of personnel development (see below), an evaluation model based on child change data will be attempted on a small scale.

Systematic Planning to Meet Personnel Needs

The inservice training program is one component of a comprehensive system of personnel preparation which is being developed by the Oregon Department of Education. This system is the work of the Comprehensive Manpower Planning Team (CMPT). The team will include:

1. Sources of preservice and inservice training:
   --state institutions of higher education
   --community colleges
   --private institutions of higher education
   --the state education agency
   --local education agencies
   --private training agencies
   --consortium of Part D project directors

2. Direct consumers of preservice and inservice training
   --school district administrators
   --special education personnel
   --regular education personnel
   --support personnel
   --students in preservice training

3. Indirect consumers of preservice and inservice training
   --handicapped persons
   --parents of handicapped children
   --advocacy groups

The CMPT is a working team which interacts with several other groups: a larger advisory council, the various interest groups represented by team members, and task forces composed of team members and others who have a particular expertise or interest.

The major responsibilities of the CMPT include:

1. Oversee the development and implementation of a statewide needs assessment system to include both information on preservice and inservice needs and a means of regular updating of assesment information.

2. Set priorities for statewide personnel preparation relating to PL 94-142.

3. Determine what resources exist to meet the needs identified, as well as establishing a system for updating information on resources.

4. Develop plans for supplementing existing resources when necessary.

5. Establish a procedure for evaluating the quality of training offered.

6. Monitor the implementation of the personnel development system.

7. Develop an evaluation model which will provide the data needed to modify the system and the plan for personnel preparation.

Team members will disseminate information on the planning activity to the groups they represent, and will secure input and commitment of resources from those groups. Members of the CMPT will also negotiate the extent of involvement in the plan on the part of the various groups. In addition, team members will work with SEA staff in identifying and carrying out the specific tasks which are essential to the planning process.

The SEA, in cooperation with the CMPT, will have primary responsibility for developing and implementing a system for dissemination of information and promising practices throughout the state. A student intern will be requested to assist in this process. The intern will conduct literature searches, catalog materials and arrange for publication of appropriate information.

Primary responsibility for coordinating technical assistance to LEAs in the implementation of the personnel development plan will also rest with the SEA. Technical assistance will include providing local districts with access to the dissemination network; consultants, including practitioners and CMPT members among others, referred or contracted by the Department of Education; and meetings and conferences as required.

The effectiveness of the comprehensive system of personnel development will be evaluated through the annual needs assessment. Discrepancies between the required personnel (new and retrained) and the available personnel will decrease over time if the system is effective. Using the needs assessment as an instrument for evaluation permits the data gathered each year to be used in effecting the necessary changes in the personnel development system.

TABLE 5. –INSERVICE TRAINING FORM *(1977-1978 school year)*

AREA OF TRAINING (a)	NUMBER AND TYPES OF PERSONS TO RECEIVE INSERVICE TRAINING (b)																					
	REGULAR CLASS TEACHERS	SPECIAL CLASS TEACHERS	RESOURCE ROOM TEACHERS	ITINERANT/CONSULTING TEACHERS	HOME-HOSPITAL TEACHERS	PHYSICAL EDUCATORS	VOCATIONAL EDUCATORS	TEACHER AIDES	WORK-STUDY COORDINATORS	RECREATIONAL THERAPISTS	OCCUPATIONAL THERAPISTS Physical Therapists	SPEECH PATHOLOGISTS	AUDIOLOGISTS	PSYCHOMETRISTS/EDUCATIONAL DIAGNOSTICIANS	PSYCHOLOGISTS	SCHOOL SOCIAL WORKERS	PARENTS OF HANDICAPPED CHILDREN	SURROGATES	VOLUNTEERS	HEARING OFFICERS	SUPERVISORS	ADMINISTRATORS	OTHER NON INSTRUCTIONAL STAFF
Diagnostic Procedures	3	5	2											30							10		
Instructional Procedures																							
Implementation of P.L. 94-142	175	30	30	5		2		5	5			40		30	5			150		30	130	335	330
Individual Education Programs	175	20	20	5		2					6/6	115	4	32						30			
Least Restrictive Environment	110	30	30	5		2						40		30	5					30	10	20	
Procedural Safeguards	100	20	20	5		2						40		30	5					30	80	75	
Use of Surrogates																				30			
Priorities Served Unserved	100	20	20	5		2						40		30	5					30	10	5	
Non-Discriminatory Testing	100	20	20	5		2						40		30	5					30	10	5	
OTHER (Specify)																							

XI. PARTICIPATION OF PRIVATE SCHOOL CHILDREN

A. It is state policy that to the extent consistent with the number and location of handicapped children in the state who are enrolled in private elementary and secondary schools, provision is made for participation of those children in the programs assisted or carried out under PL 94-142 by providing for those children special education and related services.

1. The numbers and types of private school children who are handicapped are determined during the state's biannual handicapped child census. Private school personnel who are knowledgeable of handicapping conditions among the children who attend their school will complete handicapped child census data.

2. Public school personnel and services will be made available to nonpublic school children on other than the nonpublic school site and only to the extent necessary to provide the special education and related services. Further, these services will be made available only when required personnel are not provided at the private school. The provision of personnel and services will be made to the extent consistent with the number and location of handicapped children who are enrolled in private schools.

3. Each state and local agency providing special education and related services to children enrolled in private schools will maintain administrative control and direction over those services.

4. PL 94-142 funds used to support the education of handicapped children in private schools will not include the payment of salaries of private school personnel except for services performed outside their hours of duty and under public supervision and control, nor must the services include the use of equipment purchased with PL 94-142 funds on private school premises, or the construction of private school facilities.

5. Programs and projects to be carried out in public facilities, and involving joint participation by handicapped children enrolled in private programs and public schools, will not include classes that are separated on the basis of where the child is enrolled or the child's religious affiliation.

6. Determining the types and number of nonpublic children who will participate in special education programs and the types of services provided shall be made on a basis comparable to procedures used in providing for the participation of handicapped children in public schools after consultation with persons knowledgeable as to the children's needs.

B. To implement the policy of participation of nonpublic school children who are handicapped, the state has asked all private and parochial schools to provide data for the state's biannual handicapped child census. Each local educational agency is given a computer printout of reported handicapped children living within the jurisdiction of the LEA who have been identified and located by the nonpublic school.

The LEA application for PL 94-142 flow-through funds requires LEAs to confer with nonpublic school officials who are knowledgeable about the needs of handicapped children enrolled in the nonpublic schools but living within the jurisdiction of the local school district. Projects shall be developed so as to include nonpublic handicapped children who are in need of special educational services. Local school districts shall report on the numbers and types of nonpublic school handicapped children and the means by which special education and related services will be provided on a comparable basis with handicapped children in the public school.

Monitoring of the policy for the participation of private school children shall be accomplished during on-site monitoring visits. Principals of nonpublic schools will be interviewed during these monitoring visits to obtain their views on the extent and appropriateness of special education and related services being provided. All applications from LEAs for PL 94-142 flow-through funds will be approved only when the LEA provides information and assurances regarding the participation of nonpublic school children. All the monitoring procedures outlined in Chapter XVI of this plan shall be employed.

XII. PLACEMENT IN PRIVATE SCHOOLS

A. It is state policy that handicapped children in private schools and facilities will be provided special education and related services in conformance with an individualized education program. Special education will be provided at no cost to the parents or guardian, if such children are placed in or referred to such schools or facilities by the state or appropriate local education agency as a means of carrying out the requirements of any applicable law requiring the provision of special education and related services to all handicapped children within the state. In all such instances, the Oregon Department of Education shall determine whether such schools and facilities meet standards that apply to state and local education agencies and whether children so served have all the rights they would have if served by public agencies.

1. When a handicapped child is offered a free appropriate public education in a public education agency that is readily accessible to the child's home community and the parents waive that opportunity in favor of private school placement, the parents shall assume full financial responsibility for the child's education.

2. If parents contend that they have been forced, at their own expense, to seek private schooling for children because an appropriate program does not exist, and the responsible agency disagrees, that disagreement and the question of who remains financially responsible is a matter to which the due process procedures apply.

3. Whenever handicapped children are placed in private schools or facilities by public education agencies, the agency responsible shall take steps to assure that the children have all the rights they would have if educated in a public school.

4. All private schools will receive a copy of state standards and revisions as they are adopted.

5. Private schools are provided the opportunity to participate in the development and revision of standards relating to special education by making their views known at public hearings on special education standards. All State Board of Education meetings at which standards are adopted are public meetings and any comments from the private school sector or others regarding the standards shall be heard.

B. The state policy on the placement of handicapped children in private schools shall be monitored by a complete review and follow-up on any complaints received regarding noncompliance with the policy. During on-site monitoring visits LEAs shall be asked to provide information on the agency's placement of handicapped children in private schools and a follow-up shall be made regarding compliance with this state policy.

XIII. RECOVERY OF FUNDS FOR MISCLASSIFIED CHILDREN

A. It is state policy that funds made available under PL 94-142 for service to any child who is determined to be erroneously classified as eligible to be counted will be recovered by the Oregon Department of Education.

Handicapped children receiving special education and related services are counted for the purpose of generating funds for a local school district. If it is determined that one or more children are erroneously classified and counted and the local school district receives funds based on such a count, the Oregon Department of Education will recover those funds.

The means of recovery of the funds will be to reduce that local school district's entitlement in a subsequent year in direct proportion to the numbers of children erroneously classified as eligible to be counted.

Monitoring to identify children that have been misclassified will be accomplished by checking the number of children generating PL 94-142 federal funds against the actual number being served. As the state meets its goal of providing full educational opportunities for all handicapped children, the number of handicapped children counted should equal the number of handicapped children served.

XIV. HEARING ON LEA APPLICATIONS

A. Final action with respect to any application for PL 94-142 flow-through funds submitted by a local school district or an intermediate education district will not be taken without first affording the district involved reasonable notice and an opportunity for a hearing.

The procedure will be for staff of the Special Education Division of the Department of Education to review local school district applications and then work cooperatively with involved district personnel to make any necessary corrections. In the event a school district or intermediate education district disagrees with requests to bring the application into compliance with PL 94-142, an opportunity for a hearing will be provided.

XV. ANNUAL EVALUATION

A. At least annually, the effectivenes of programs in operation for meeting the educational needs of handicapped children will be evaluated according to criteria that the Commissioner shall prescribe. Annual reports shall be obtained from project directors utilizing PL 94-142 funds. The reports shall describe (but not be limited to):

1. The extent to which all handicapped children are located, evaluated and placed in special education programs.

2. The success of placing handicapped children in the least restrictive environment for educational purposes.

3. The extent that full educational opportunities are being provided within established timelines.

4. The effect of the priority system in the provision of service to handicapped children.

5. The results of procedural safeguards established for parents and their handicapped children.

6. The progress being made in the comprehensive system of personnel development.

7. The extent of participation of children in private and other nonpublic schools.

8. The evaluation of individualized educational programs for each handicapped child.

Each handicapped child's individualized education program (IEP) will be evaluated at least annually. The evaluation should:

1. Establish whether or not the child is progressing as specified in the long-term objectives of the IEP.

2. Establish whether or not the child is approaching a point of transfer to another program.

3. Establish and plan what adjustments might be necessary if the plan does not seem appropriate.

Procedures for evaluating the individualized program based on this stated purpose:

1. The teacher will develop a procedure for monitoring the progress of the child considering the activities, criteria and expected completion dates as stated in the IEP.

2. A review conference will be conducted at least annually. In attendance at that conference will be at least the team that developed the IEP.

3. Using the individualized education program of the child, the team will review:

   (a) Whether the activities have been completed on the established criteria.

   (b) If the long-term objectives need restating.

   (c) If the short-term objectives need revision because the objectives have been met or new long-term objectives have been developed.

   (d) If any other services such as testing and physical therapy are required.

4. Within thirty days, or prior to the start of the next school year, a new individualized education program will be developed.

XVI. MONITORING

To assure compliance to the policy statements in this FY 1978 Amended Annual Program Plan and the federal regulations governing PL 94-142, the Oregon Department of Education will monitor local school districts and other state agencies. The monitoring will be directed toward the policy statements contained in this Amended Annual Program Plan and the Oregon Administrative Rules developed to require compliance.

Monitoring for compliance will take the following forms:

1. Each application for PL 94-142 flow-through funds will be reviewed to determine compliance with the state's policy statements and the PL 94-142 regulations. Each approved application shall include a local school board resolution adopting policy on:

   (a) The PL 94-142 goal statement
   (b) The control of federal funds
   (c) The use of federal funds for excess costs only
   (d) Priorities for the use of funds
   (e) The identification, location and evaluation of handicapped children
   (f) The development of individualized education programs
   (g) Confidentiality of records
   (h) Parental access to confidential records on their children
   (i) Public information
   (j) Procedural safeguards
   (k) The participation of children in private schools
   (l) Nondiscrimination

2. A schedule of program site visits shall be developed so that each local school district will have an on-site review at least once every three years to assist in compliance with the law, policies and procedures. As an aid in providing on-site reviews, a checklist shall be developed to help assure that compliance with all state policies is in effect.

3. The Oregon Department of Education shall review and follow up on all complaints and unresolved issues that are brought to its attention and assist local school districts and other state agencies in complying with the law.

4. Handicapped child count and census data will be monitored to assure that all handicapped children who are located, identified and evaluated, and who are in need of special education are provided such services appropriately and at no cost to the child's parents.

APPENDICES

Appendix A	Summary of Public Comment and Action Taken
Appendix B	Newspaper Notice re: Review and Comment on the Plan Hearings on the Plan
Appendix C	ORS 343.041
Appendix D	(II Right to Education Policy Statement) ORS 339.115 ORS 339.010 ORS 339.020 ORS 339.030 OAR 581-21-045 ORS 343.221 OAR 581-21-046 ORS 336.090 ORS 336.095
Appendix E	(VI Individualized Education Program) OAR 581-15-064 OAR 581-15-065 OAR 581-15-066 OAR 581-15-067 OAR 581-15-068 OAR 581-15-069
Appendix F	(VII Procedural Safeguards) OAR 581-15-076 OAR 581-15-077 OAR 581-15-078 OAR 581-15-081 OAR 581-15-082 OAR 581-15-084 OAR 581-15-085 OAR 581-15-086 OAR 581-15-087 OAR 581-15-091 OAR 581-15-092 OAR 581-15-094 OAR 581-15-096 OAR 581-15-098
Appendix G	(VIII Least Restrictive Environment) OAR 581-15-059 OAR 581-15-060 OAR 581-15-061 OAR 581-15-062
Appendix H	Executive Order No. EO-77-22 Interagency Agreement - Children's Services Division Interagency Agreement - Mental Health Division Interagency Agreement - Vocational Rehabilitation Division
Appendix I	(IX Protection in Evaluation Procedures) OAR 581-15-071 OAR 581-15-072

SUMMARY OF PUBLIC COMMENT AND ACTION TAKEN

Comment Several individuals were concerned about inadequate opportunities in the plan for consumer participation; e.g., (1) consumer's right to demand an investigation in perceived cases of noncompliance, (2) review of complaints be conducted in cooperation with parent and consumer groups, (3) consumer and voluntary association responses be solicited for participation in the handicapped child census, and (4) mandatory parent and consumer group responsibility to monitor and evaluate programs.

Response The procedure for monitoring includes a responsibility to follow up on program complaints, and an effort will be made to include the party that submits the complaint. The procedure has been established to accept handicapped child information from a wide range of organizations and agencies, and an effort will be made to contact consumer groups in the future. Voluntary parent and consumer group participation will be considered for monitoring and evaluation responsibility.

Comment It was recommended the Oregon Department of Education apply for an incentive grant to serve handicapped preschool children.

Response The Oregon Department of Education will submit an application for an incentive grant to the U.S. Bureau for the Education of the Handicapped.

Comment It was suggested that all records, not just relevant records, be made available to the parents of a child.

Response The word "relevant" has been deleted.

Comment It was suggested that appeals submitted to the Oregon Department of Education should be decided by an impartial hearings officer.

Response The appeal to the Oregon Department of Education is a request for a review of an impartial hearings officer's decision. No change in wording has been made.

Comment It was felt that the section dealing with the "least restrictive environment" should include level of instruction within the school district.

Response It is the intent of this section to show levels or alternatives of service for handicapped children outside the school district. No change has been made.

Comment It was stated that the procedures for monitoring programs and the policies for enforcement are not adequate.

Response These sections have been completely rewritten to show all the monitoring procedures planned, including site visits at least every three years and follow up on all complaints. Oregon Administrative Rules will be developed to assure enforcement.

Comment The Oregon Legislature's Education Subcommittee of Ways and Means commented that the Department of Education is to modify the language in the Annual Program Plan indicating that PL 94-142 funds will be spent in accordance with existing Oregon statutes for special education purposes and will follow federal law where no applicable Oregon law exists.

Response This language has been written into the Annual Program Plan. Commitments by the state to do more than state law allows have been deleted from the plan. The plan meets all minimum requirements of PL 94-142 and can be fully implemented within state laws for education in Oregon.

Comment It was suggested that the content of the IEP include specific reference to vocational potential and objective.

Response Section VI (6) (d) of the plan provides that the IEP content include a statement of the special education and related services required to meet the child's unique needs. This statement would include needed vocational education. No change has been made.

Comment It was suggested that one of the inservice training modules emphasize the resources of the community which should be utilized to support and continue the IEP.

Response The FY 1978 Title VI EHA proposal abstract which is included in the plan indicates training module development will be based on need. It is probable that a training module on community resources to support IEP will be provided.

In the _____ *Court of the State of Oregon*

for the County of Multnomah

_____

_____ Plaintiff

vs.

_____

_____ Defendent

Affidavit of Publication

STATE OF OREGON

County of Multnomah } ss.

I, J.M. MCINTEER being first duly sworn depose and say that I am the Principal Clerk Of The Publisher of The Oregonian, a newspaper of general circulation, as defined by ORS 193.010 and 193.020, published in the City of Portland, in Multnomah County, Oregon, that the advertisement, a printed copy of which is hereto annexed, was published without interruption in the entire and regular issues of The Oregonian for THREE ISSUES successive and consecutive on the following dates May 13,14,15, 1977

Principal Clerk Of The Publisher

Subscribed and sworn to before me this 17th day of May 19 77

Notary Public for Oregon

My Commission Expires July 8, 1979

F-1703 My Commission expires _____

STATE PLAN FOR THE EDUCATION OF ALL HANDICAPPED CHILDREN

Oregon's Annual Program Plan for FY 1978 for the education of all handicapped children is currently being developed for state adoption. Draft copies of the Plan are available for public review and comment and may be examined at any school district, IED or county school office, from May 30 - June 30, 1977.

The Plan describes policies and procedures the state will use to implement the federal requirements of PL 94-142 (Education of All Handicapped Children's Act).

Public hearings to receive oral and written comments on the Plan will be held June 1st from 1:30 to 3:30 at Lane IED Room 3, 1200 Highway 99N, Eugene, Oregon and June 2nd from 1:30 to 3:30 at Multnomah IED, 220 SE 102nd Avenue, Portland, Oregon.

Questions and comments regarding the Plan may be directed to Dr. Mason McQuiston, Director of Special Education, State Department of Education, 942 Lancaster Drive NE, Salem, Oregon. (Toll free number 800-452-2143.)

343.041 Educational programs for handicapped children to be supervised by Superintendent of Public Instruction. (1) The Superintendent of Public Instruction shall be responsible for the general supervision of all educational programs for handicapped children within the state, including all such programs administered by any state agency or common or union high school district or education service district.

(2) All educational programs for handicapped children within this state shall meet the standards and criteria established therefor by the State Board of Education.

(3) The Governor shall direct that agencies affected by this section shall enter into cooperative agreements to achieve necessary uniformity in meeting the standards and criteria established by the state board under subsection (2) of this section.

[1977 c.528 §3]

ADMISSION OF PUPILS; TUITION AND FEES

339.115 Admission of Pupils; waiver. (1) Except as provided in ORS 336.165 authorizing tuition for courses not part of the regular school program, the district school board shall admit free of charge to the schools of the district all persons between the ages of 6 and 21 residing therein. However, a district school board may admit other nonresident persons, determine who is not a resident of the district and may fix rates of tuition for nonresidents.

(2) A child entering school for the first time during the fall term shall be considered to be six years of age if his sixth birthday occurs on or before November 15. A child entering school for the first time in a midwinter term, if the school has a beginning first-year class in midwinter, shall be considered to be six years of age if his sixth birthday occurs on or before March 15.

(3) District school boards may provide, by rule, that a resident child eligible to enter a beginning first-year class at the opening of the fall term or midwinter term, but who does not enter within the first four weeks of such term shall be ineligible to enter school for the remainder of the school year or until another beginning first-year class is organized during that school year. A district school board may waive the requirements of this subsection for disadvantaged children as defined by ORS 343.650.

[1965 c. 100 s. 285; 1971 c. 410 s.1]

339.120 [Amended by 1957 c. 198 s. 5; repealed by 1965 c. 100 s. 436]

COMPULSORY SCHOOL ATTENDANCE

339.010 School attendance required; age limits. Except as provided in ORS 339.030, all children between the ages of 7 and 18 years who have not completed the 12th grade are required to attend regularly a public full-time school of the school district in which the child resides.

[Amended by 1965 c. 100 s. 274]

339.020 Duty to send children to school. Except as provided in ORS 339.030, every person having control of any child between the ages of 7 and 18 years who has not completed the 12th grade is required to send such child to and maintain such child in regular attendance at a public full-time school during the entire school term.

[Amended by 1965 c. 100 s. 275; 1969 c. 160 s.1]

339.030 Exemptions from compulsory school attendance. In the following cases, children shall not be required to attend public full-time schools:

(1) Children between the ages of 16 and 18 years who are lawfully employed full time, who are lawfully employed part time and in school part time, who are attending a community college, or are engaged in activities equivalent to the preceding.

(2) Children being taught in a private or parochial school in the courses of study usually taught in grades 1 through 12 in the public schools and in attendance for a period equivalent to that required of children attending public schools.

(3) Children proving to the satisfaction of the district school board that they have acquired equivalent knowledge to that acquired in the courses of study taught in grades 1 through 12 in the public schools.

(4) Upon determination pursuant to criteria of the State Board of Education that a child is suffering from physical or mental illness or disease of such severity as to make his presence in a school facility or his travel to and from such facility impossible or dangerous to his health or the health of others, the public schools shall provide the child either home, hospital, institutional or other regularly scheduled and suitable instruction meeting standards of the State Board of Education unless such child is receiving suitable instruction in a state or regional facility or institution.

(5) Children between the ages of 7 and 10 years whose parents live more than one and one-half miles, and children over 10 years of age whose parents live more than three miles, by the nearest traveled road, from some public school and for whom the school district does not provide transportation over the distances specified in this subsection.

(6) Children being taught for a period equivalent to that required of children attending public schools by a parent or private teacher the courses of study usually taught in grades 1 through 12 in the public school.

(a) Before the children are taught by a parent or private teacher, the parent or teacher must receive written permission from the executive officer of the resident school district. The permission shall not extend beyond the end of the school year in which permission is granted. If permission is not granted, the person having legal custody of the children may appeal the decision to the school board of the resident district.

(b) Children being taught by a parent or private teacher must be examined in the work covered. Such examinations shall be prepared by the State Board of Education and provided to school districts upon request. If the executive officer of the administrative office determines after examination that the children are not being taught properly, he shall order the person having control of the children to send them to school for the remainder of the school year.

(7) Children excused by the district school board of the district in which the children reside. The district school board has authority to excuse a child from compulsory attendance if the child has completed the first eight grades.

(8) Children excluded from attendance as provided by law.

(9) Children between the ages of 16 and 18 years who have the mutual consent of the school administration and the parent or other individual having custody or legal guardianship over a child.

[Amended by 1965 c. 100 s. 276; 1967 c. 67 s. 8; 1971 c. 494 s. 1; 1973 c. 728 s. 1]

Equal Employment and Educational Opportunity

Discrimination Prohibited

581-21-045 (1) Definitions:

(a) Discrimination (as used in the rules regarding nondiscrimination) means any act that unreasonably differentiates treatment, intended or unintended, or any act that is fair in form but discriminatory in operation, either of which is based on race, national origin, religion, sex, age, handicap, or marital status. (ORS 659.150)

(b) The words District, School District (as used in the rules regarding nondiscrimination) include all public elementary, secondary, unified or union high school districts, intermediate education districts, and county units, and all educational agencies, programs, and services under the jurisdiction of the State Board of Education, except community college programs.

(2) General. No person in Oregon shall be subjected to discrimination in any public elementary or secondary school, educational program or service, or interschool activity where the program, service, school, or activity is financed in whole or part by monies appropriated by the Legislative Assembly.

(3) Specific Prohibitions: In providing programs or services to students, a school district shall not, on a discriminatory basis as defined in Section (1) (a) of this rule:

(a) Treat one person differently from another in determining whether such person satisfies any requirement of condition for the provision of such aid, benefit, or service;

(b) Provide different aid, benefits, or services; or provide aids, benefits, or services in a different manner;

(c) Deny any person such aid, benefit, or service;

(d) Subject any person to separate or different rules of behavior, sanctions, or other treatment;

(e) Aid or perpetuate discrimination by joining or remaining a member of any agency or organization which discriminates in providing any aid, benefit, or service to students or employees;

(f) Otherwise limit any person in the enjoyment of any right, privilege, advantage, or opportunity.

(4) Exceptions. These rules shall not affect attendance boundaries, limit placement of students in programs of desegregation, nor supersede any specific statutory requirement for any educational program.

Statutory Authority: ORS 659.150; ORS 326.051
Hist: Filed 9-30-76 as 1 EB 252, Eff. 9-30-76

HANDICAPPED CHILDREN

343.211 [1959 c.510 §2 (343.211 to 343.291 and 343.990(2) enacted in lieu of 343.234 to 343.304 as compiled in 1957 Replacement Part); repealed by 1965 c.100 §395 (343.212 enacted in lieu of 343.211)]

343.212 [1965 c.100 §396 (enacted in lieu of 343.211); 1969 c.291 §1; 1975 c.621 §4; renumbered 343.035]

343.216 [1953 c.444 §§1, 2; repealed by 1955 c.721 §1]

343.218 [1953 c.444 §§3, 4; repealed by 1955 c.721 §1]

343.220 [Repealed by 1953 c.710 §23]

343.221 Special education required. In order to provide special education for handicapped children, the district school board of any school district in which there are children under 21 years of age who require special education:

(1) Shall submit an annual projected activities and cost statement to the Superintendent of Public Instruction for a program of special education for the district's handicapped children. The proposed district program shall include provisions for providing special education and related services and be designed to meet the unique needs of all resident handicapped children.

(2) Shall provide special education for such children consistent with the projected activities and cost statement.

(3) May, when the board considers a contract to be economically feasible and in the interests of the learning opportunities of eligible children, contract for special education for such children with another school district or an education service district if:

(a) The district school boards jointly agree to provide special education.

(b) The school districts within the education service district approve the contract by a resolution adopted in the manner provided in subsection (2) of ORS 334.175.

(c) Any school district within the education service district contracts with the education service district in the manner provided in subsection (3) of ORS 334.175 for such special education.

(4) May contract with private agencies or organizations approved by the State Board of Education for special education.

(5) May use the clinical services of public agencies which provide diagnostic and evaluation services for children.

[1959 c.510 §4 (343.211 to 343.291 and 345.990(2) enacted in lieu of 343.234 to 343.304 as compiled in 1957 Replacement Part); 1963 c.403 §1; 1965 c.100 §399; 1975 c.621 §6; 1977 c.529 §1]

343.222 [1953 c.444 §6; repealed by 1955 c.721 §1]

343.225 [1959 c.510 §5 (343.211 to 343.291 and 343.990(2) enacted in lieu of 343.234 to 343.304 as compiled in 1957 Replacement Part); 1963 c.544 §48; repealed by 1965 c.100 §456]

Program Compliance Standards

581-21-046 (1) Access to Course Offerings. A school district shall not provide any course or otherwise carry out any of its educational programs or activities on a discriminatory basis as defined in ORS 659.150 or require or refuse participation therein by any of its students on such basis.

(a) This section does not prohibit grouping of students in any educational program or activity by ability as assessed by objective standards of individual performance.

(b) Where use of an objective standard of measuring skill or progress in an educational program has a discriminatory effect on persons as defined in OAR 21-045, the district shall use appropriate standards which do not have such effect.

(c) This section does not prohibit separating students by sex within physical education classes or activities during participating in wrestling, boxing, Rugby, ice hockey, football, basketball, soccer, and other sports the purpose or major activity of which involves bodily contact.

(2) Employment Assistance. A district which actively assists any agency, organization, or person in making employment available to any of its students shall assure itself that such employment is made available without discrimination.

(3) Marital Status. A district shall not discriminate against any student or exclude any student from its educational program or activity including any class or extracurricular activity on the basis of the student's marital status unless the student requests voluntarily to participate in a separate portion of the program or activity of the district.

(4) Athletics. A district which operates or sponsors interscholastic club or intramural athletics shall provide equal athletic opportunity for members of both sexes, all age and ethnic groups, and persons with handicaps. In determining whether equal opportunities are available, the Superintendent of Public Instruction shall consider among other factors whether the selection of sports and levels of competition effectively accommodate the interests and abilities of all students.

(5) Students Unable to Attend Because of Religious Beliefs. Any student who because of his or her religious beliefs is unable to attend classes on a particular day shall be excused from attendance requirements and from any examination or other assignment on that day. The student shall make up the examination or other assignment missed because of such absence.

(6) Textbooks and Curriculum Material. Nothing in this rule shall be interpreted as requiring or prohibiting or abridging in any way the use of adopted textbook or curriculum materials. However, where materials are found upon investigation to provide discriminatory impact on the basis of race, national origin, religion, sex, age, handicap, or marital status, there should be established resources for employees and students of the district for supplemental alternative nondiscriminatory material.

(7) Use of Appraisal and Counseling Materials. A district which uses testing or other materials for appraising or counseling students shall not use materials which discriminate on the basis of race, national origin, religion, sex, age, handicap, or marital status, or use materials which permit or require different treatment of students on such basis unless such differences cover the same occupation and interest areas and the use of such different material is shown to be essential to the elimination of discrimination. Districts shall develop and use internal procedures for insuring that such materials may not discriminate.

(8) Bilingual or Linguistically Different Students. Districts shall develop and implement a plan for identifying students whose primary language is other than English and shall provide such students with appropriate programs until they are able to use the English language in a manner that allows effective and relevant participation in regular classroom instruction and other educational activities.

(9) Equal Educational Opportunity Plans. Districts shall develop and implement a plan which assures that all students have equal opportunity to participate in the educational programs and activities and equal access to facilities in the district. Said plan

shall include courses and/or components which provide students with an understanding of the pluralistic realisites of their society, including multi-cultural/racial/ethnic education and equity in portraying all classes protected under ORS 659 150. Upon the request of the Superintendent of Public Instruction, districts shall submit copies of such plans and other assurances as are deemed necessary and proper.

(10) Interpretation of Rules. The Superintendent of Public Instruction may issue written interpretations concerning rules for nondiscrimination upon the written request of parties to a complaint at the district level.

Statutory Authority: ORS 659.150, 326.310(3)
Hist: Filed 9-30-76 as 1 EB 252, Eff. 9-30-76

ADDITIONAL PROGRAMS

336.090 [Repealed by 1965 c. 100 s. 456]

336.092 Definitions for ORS 336.092 and 336.095. As used in ORS 336.092 and 336.095, unless the context requires otherwise:

(1) "Kindergarten child" means a child in the year immediately prior to his enrollment in the first grade.

(2) "Kindergarten facilities" includes physical facilities, supplies, equipment and personnel suitable for the education and training of children in the year immediately prior to their enrollment in the first grade.

(3) "Physical facilities" includes but is not limited to public school buildings, rented buildings which meet health and safety standards or homes used in school district sponsored programs.

[1973 c. 707 s. 2]

336.095 Establishment, funding and status of kindergartens. (1) The district school board of any common school district may provide kindergarten facilities free of charge for the kindergarten children residing in the district by operating such facilities either singly or jointly with other districts.

(2) Kindergartens established under subsection (1) of this section shall be funded in the same manner as other schools of the district are funded.

(3) Kindergartens are part of the public school system of this state.

[1973 c. 707 s.3]

336.100 [Repealed by 1965 c. 100 s. 456]

336.105 [Formerly 336.055; repealed by 1973 c. 707 s. 7 and 1973 c. 750 s. 13]

336.110 [Repealed by 1965 c. 100 s. 456]

INDIVIDUALIZED EDUCATION PROGRAM

Effective Dates of Individualized Education Program

581-15-064 (1) On October 1, 1977, and at the beginning of each school year thereafter, school districts shall have an individualized education program for each handicapped child who is receiving special education from the district.

(2) An individualized education program must:

(a) Be written before special education is provided to a child and

(b) Be implemented as soon as possible following the meetings held under OAR 581-15-065.

Statutory Authority: ORS 343.055
Hist: Filed 12-22-77 as 1 EB 269, Eff. 12-22-77

Meetings to Develop Individualized Educational Program

581-15-065 (1) School districts shall initiate and conduct meetings for the purpose of developing, reviewing and revising a handicapped child's individualized education program:

(a) For children whom the agency has already determined will receive special education during the 1977-78 school year, early enough to insure that an individualized educational program is developed by October 1, 1977, and

(b) For all other handicapped children, within 30 calendar days of a determination that the child needs special education.

(2) School districts shall initiate and conduct meetings to review and revise as appropriate each child's individualized educational program at least once a year.

Statutory Authority: ORS 343.055
Hist: Filed 12-22-77 as 1 EB 269, Eff. 12-22-77

Participants in Meetings

581-15-066 School districts shall insure that each meeting includes the following participants:

(1) The child's teacher (the teacher of child receiving special education is the child's special education teacher or speech-language pathologist, the teacher of a child being considered for placement in special education is the child's regular teacher or a teacher qualified in the program in which the child may be placed and the teacher of a child not in school or who has more than one teacher is a teacher designated by the school district),

(2) A representative of the school district, other than the child's teacher, who is qualified to provide, or supervise the provision of, special education,

(3) One or both of the child's parents except as provided in OAR 581-15-067,

(4) The child where appropriate,

(5) For a handicapped child who has been evaluated for the first time, a member of the evaluation team or some other person who is knowledgeable about the evaluation procedures used and familiar with the results of the evaluation procedures used, and

(6) Other individuals at the discretion of a parent or the school district.

Statutory Authority: ORS 343.055
Hist: Filed 12-22-77 as 1 EB 269, Eff. 12-22-77

Parental Participation

581-15-067 (1) School districts shall take steps to insure that one or both parents are at the meeting provided by OAR 581-15-066 or have an opportunity to participate, including scheduling the meeting at a mutually agreed upon time and place and providing parents with a written notice of the meeting sufficiently in advance to insure that they will have an opportunity to attend, such notice to state the purpose, time and place of the meeting and who will attend. The school district shall take whatever action is necessary to insure that the parent understands the proceedings at a meeting, including arranging for an interpreter for parents who are deaf or whose native language is other then English.

(a) If neither parent can attend, the school district shall use other methods to insure parent participation, including, but not limited to, individual or conference phone calls or home visits.

(b) A meeting may be conducted without a parent in attendance if the school district is unable to convince the parents to attend, in which case the school district must have a detailed record of its attempts to arrange a mutually agreed on time and place.

(2) Upon request, the school district shall give the parent a copy of the individualized education program.

Statutory Authority: ORS 343.055
Hist: Filed 12-22-77 as 1 EB 269, Eff. 12-22-77

Content of Individual Educational Program

581-15-068 The individualized education program shall include:

(1) A statement of the child's present levels of educational performance,

(2) A statement of annual goals, including short-term instructional objectives.

(3) A statement of the specific special education and related services to be provided to the child, and the extent to which the child will be able to participate in regular educational programs,

(4) The projected dates for initiation of services and the anticipated duration of the services, and

(5) Appropriate objective criteria and evaluation procedures and schedules for determining, on at least

an annual basis, whether the short-term instructional objectives are being achieved.

Statutory Authority: ORS 343.055
Hist: Filed 12-22-77 as 1 EB 169, Eff. 12-22-77

Accountability Under Individualized Educational Programs

581-15-069 School districts shall provide special education and related services to a handicapped child in accordance with an individualized education program. No school district, teacher or other person shall, however, be held accountable if a child does not achieve the growth projected in the annual goals and objectives.

Statutory Authority: ORS 343.055
Hist: Filed 12-22-77 as 1 EB 269, Eff. 12-22-77

PROCEDURAL SAFEGUARDS

When Prior Notice is Required

581-15-076 Whenever a school district proposes to initiate or change, or refuses to initiate or change, the identification, evaluation or educational placement of a child, the school district shall serve a written prior notice on the parents of the child personally or by registered or certified mail.

Statutory Authority: ORS 343.055 and 343.077(2)
Hist: Filed 12-22-77 as 1 EB 269, Eff. 12-22-77

Contents of Prior Notice

581-15-077 The written notice shall include:

(1) A reference to the particular sections of the statutes and rules involved;

(2) A plain statement of the matters asserted including, but not limited to:

(a) A description of the proposed or requested action and reasons why such action is deemed appropriate or inappropriate for the child,

(b) A description of any options which the school district considered and reasons why those options were rejected and

(c) A statement as to any tests, reports or evaluation procedures upon which the proposed or refused action is based;

(3) A statement of the authority and jurisdiction under which the hearing is to be held;

(4) A statement of the parents' right to a hearing;

(5) A statement that the parents have the rights to:

(a) Have the subject child present at the hearing and

(b) Open the hearing to the public;

(6) A statement that, if the parents desire a hearing, the school district must be notified in writing within 20 days of the mailing of the notice;

(7) A statement that the parents may be represented at the hearing by counsel and by individuals with special knowledge or training with respect to the problems of handicapped children;

(8) A statement that the parents have the right to obtain an independent educational evaluation of the child which includes a list of public and private agencies from whom independent educational evaluations may be obtained;

(9) A statement that public school files, records and reports pertaining to the child will be available to the parents and their designated representative for inspection and photocopying at a reasonable cost;

(10) A statement that, during the pending of any administrative or judicial proceedings, the child will remain in the present educational placement or, if applying for initial admission to a public school, the child shall be placed in the public school with the consent of the parents, except that the parents and the school district may agree otherwise for the provision of appropriate educational services, and except that, where imminent danger to the health or safety of the child or others, constituted by conduct of the child, so necessitates, the child may be excluded temporarily from the public schools.

Statutory Authority: ORS 343.055 and 183.415(2)
Hist: Filed 12-22-77 as 1 EB 269, Eff. 12-22-77

Form of Prior Notice

581-15-078 The notice shall be written:

(1) In wording understandable to the general public and

(2) In the native language of at least one parent unless it is clearly not feasible to do so. If it is not feasible to do so or the mode of communication of the parent is not a written language, the school district must take steps to assure that:

(a) The notice is translated orally or by other means to the parent in his or her native language or other mode of communication and that the parent understands the notice and

(b) There is a written record of compliance with paragraph (2)(a).

Statutory Authority: ORS 343.055 and 343.077(2)
Hist: Filed 12-22-77 as 1 EB 269, Eff. 12-22-77

When Hearing May be Requested

581-15-081 (1) A parent or the school district may request a hearing when either party does not agree with the identification, evaluation or educational placement of a child who may be handicapped, and the school district may request a hearing when a parent refuses to give consent pursuant to OAR 581-15-039 or when the parent requests an independent educational evaluation at school district expense.

(2) If requested by a parent or if a parent or the school district initiates a hearing, the school district shall inform the parent of any available free or low-cost legal and other relevant services.

Statutory Authority: ORS 343.055 and 343.077(2)
Hist: Filed 12-22-77 as 1 EB 269, Eff. 12-22-77

Appointment of Hearing Officer and Notice of Hearing

581-15-082 Upon receipt of a written request by a parent or the school district for a hearing, the school district board shall appoint a hearing officer, in accordance with OAR 581-15-096, to conduct the hearing and shall provide to the parties of the hearing notification as to the time and place of the hearing, which should be at a time and place reasonably convenient to the parents and child.

Statutory Authority: ORS 343.055, 343.077(2) and 183.415(2)
Hist: Filed 12-22-77 as 1 EB 269, Eff. 12-22-77

Failure to Request or Appear at Hearing

581-15-084 (1) When a parent has been given an opportunity and fails to request a hearing within 20 days of the mailing of the notice of a right to a hearing, described in OAR 581-15-077, or, having requested a hearing, fails to appear at the specified time and place, the school district board shall enter an order which supports the school district action.

(2) The order supporting the school district action shall set forth the material on which the action is based, or the material shall be attached to and made a part of the order.

Statutory Authority: ORS 343.055, 343.077(2) and 183.415(5)
Hist: 12-22-77 as 1 EB 269, Eff. 12-22-77

Subpenas and Depositions

581-15-085 (1) Subject to paragraph (2) any party shall, upon request, be issued subpenas by the school district board to compel the attendance of witnesses.

(2) Before issuing subpenas to the requesting party, the board may require a showing of need, general relevancy and the evidence to be given by the witness to be within the reasonable scope of the proceedings.

(3) On petition of any party, the board may order the testimony of any material witness to be taken by deposition in the manner prescribed by ORS Ch 45 for depositions in civil cases. The petition shall include:

(a) The name and address of the witness whose testimony is desired,

(b) A showing of materiality of the testimony and

(c) A request for an order that the testimony of the witness be taken before an officer named in the petition for that purpose.

(4) If the board issues an order for the taking of a deposition and the witness resides in this state and is unwilling to appear, the board may issue a subpena as provided in paragraph (1) requiring his appearance before the officer taking the deposition.

(5) Witnesses appearing pursuant to subpena, other than parties or officers or employes of the school district, shall be tendered fees and mileage as prescribed by law in civil actions. The party requesting the subpena shall be responsible for service of the subpena and tendering the fees and mileage to the witness.

Statutory Authority: ORS 343.055, 343.077(2), 183.425 and 183.440
Hist: Filed 12-22-77 as 1 EB 269, Eff. 12-22-77

Conduct of Hearing

581-15-086 (1) The hearing shall be conducted by and shall be under the control of the hearing officer appointed under OAR 581-15-082.

(2) At the discretion of the hearing officer, the hearing shall be conducted in the following manner:

(a) Statement and evidence of the school district in support of its action.

(b) Statement and evidence of the parents disputing the school district action.

(c) Rebuttal testimony.

(3) The hearing officer, the parents, the administrative officers of the school district and counsel or other representatives of the parties shall have the right to question or cross-examine any witnesses.

(4) The hearing may be continued with recesses as determined by the hearing officer.

(5) The hearing officer may set reasonable time limits for oral presentation and may exclude or limit cumulative, repetitious or immaterial matter.

(6) Exhibits shall be marked, and the markings shall identify the person offering the exhibits. The exhibits shall be preserved by the school district board as part of the record of the proceedings.

Statutory Authority: ORS 343.055
Hist: Filed 12-22-77 as 1 EB 269, Eff. 12-22-77

Evidence

581-15-087 (1) Evidence of a type commonly relied upon by reasonably prudent persons in conduct of their serious affairs shall be admissible.

(2) Irrelevant, immaterial or unduly repetitious evidence shall be excluded.

(3) All offered evidence, not objected to, will be received by the hearing officer subject to his power to exclude irrelevant, immaterial or unduly repetitious matter.

(4) Evidence objected to may be received by the hearing officer with rulings on its admissibility or exclusion to be made at the time a final order is issued.

Statutory Authority: ORS 343.055, 343.077(2) and 183.450
Hist: Filed 12-22-77 as 1 EB 269, Eff. 12-22-77

Informal Disposition

581-15-091 (1) Nothing contained herein shall be construed to preclude any system of consultations or conferences with parents that is used by school districts with regard to identification, evaluation or educational placement of a handicapped child. Such conferences or consultations, however, shall not be held in lieu of a hearing requested under OAR 581-15-081 if one is requested, but a request for a hearing shall not preclude informal disposition of the matter by stipulation, agreed settlement or consent order.

Statutory Authority: ORS 343.055
Hist: Filed 12-22-77 as 1 EB 269, Eff. 12-22-77

Right to Record of Hearing

581-15-092 (1) Parties are entitled, upon request, to a verbatim electronic recording or a written transcript of the record of hearing for purposes of rehearing, administrative review or judicial review or for preparation of a request or petition therefor.

(2) The requesting party shall pay the cost of recordings and transcripts furnished him or her unless the charges therefor are reduced or waived by the Court of Appeals pursuant to ORS 183.415(8).

Statutory Authority: ORS 343.055, 343.077(2) and 183.415(8)
Hist: Filed 12-22-77 as 1 EB 269, Eff. 12-22-77

Independent Educational Evaluation

581-15-094 (1) If a parent questions an educational evaluation of his or her child by the school district, the parent may request an independent educational evaluation to be made at the expense of the school district. If a hearing regarding the child has been requested, the request for an independent educational evaluation shall be made prior to that hearing.

(2) Before an independent educational evaluation is made, the school district may initiate a hearing, as provided in OAR 581-15-081, on the issue of the appropriateness of its educational evaluation of the child. If the findings of fact are that the school district's evaluation is:

(a) Appropriate, the parent is nevertheless entitled to an independent educational evaluation but not at school district expense;

(b) Inappropriate, an independent educational evaluation shall be ordered at school district expense.

(3) The results of an independent educational evaluation:

(a) Shall be considered by the school district with regard to any further action taken with regard to the child and

(b) May be presented as evidence at a subsequent hearing regarding the child.

(4) Whether an independent educational evaluation is requested or not, the parent shall be given an opportunity to examine all records with respect to the identification, evaluation and educational placement of the child.

(5) The school district shall maintain a list of public and private agencies from which an independent educational evaluation may be obtained and shall furnish the list to parents upon request.

(6) If a hearing officer requests an independent educational evaluation as a part of a hearing, the evaluation shall be at school district expense.

Statutory Authority: ORS 343.055
Hist: Filed 12-22-77 as 1 EB 269, Eff. 12-22-77

Criteria for Impartial Hearing Officers

581-15-096 (1) A hearing officer appointed to conduct a hearing regarding the identification, evaluation or educational placement of a child who may be handicapped shall:

(a) Not be employed by a public agency responsible for the education or care of the child in any capacity other than as a hearing officer and

(b) Not have a professional or personal interest which would conflict with his or her objectivity in the hearing.

(2) Each school district shall keep a list of the persons serving as hearing officers which shall include a statement of the qualifications of each of those individuals.

Statutory Authority: ORS 343.055
Hist: Filed 12-22-77 as 1 EB 269, Eff. 12-22-77

Selecting Persons as Surrogate Parents for Handicapped Children

581-15-098 (1) If the parents or legal guardians of a child thought to be handicapped are not known or are unavailable or if the child is a ward of the state, the school district, any other public agency involved in the education or care of the child or an individual having educational knowledge of the child shall notify the Oregon Department of Education.

(2) The school district shall take no action regarding the identification, evaluation or educational placement of the child until the State Superintendent of Public Instruction or an employe of the Oregon Department of Education designated by him, has determined whether or not the child needs a surrogate parent and, if needed, has been appointed a surrogate parent. Nothing herein, however, shall prohibit identification or evaluation which does not relate to special education. In determining need for a surrogate parent, the State Superintendent of Public Instruction shall consider whether any action regarding the child which would require notice to the parents under OAR 581-15-076 is being or is likely to be contemplated by the school district. When a surrogate parent is appointed, the school district shall then notify the surrogate parent of any proposal to initiate, change, or refuse to change the identification, evaluation or educational placement of the child.

(3) Surrogate parents shall be appointed from lists of suitable persons nominated by the State Advisory Council for Handicapped Children, the Oregon Developmental Disabilities Council and the Commission for the Blind. If no lists of nominees are submitted, the State Superintendent or his designee shall appoint a suitable person as surrogate parent. Persons employed by the Oregon Department of Education or the local school district or other public

agency involved in the education or care of the child are not eligible to serve as surrogates. Persons serving as surrogates shall not be considered employes of a public agency solely because they are compensated from public funds.

(4) Persons selected as surrogate parents shall be committed to acquaint themselves thoroughly with the child and the child's educational needs, shall have knowledge and skills which insure adequate representation of the child and shall represent the child in all matters relating to the identification, evaluation and educational placement of the child.

Statutory Authority: ORS 343.077(4)
Hist: Filed 12-22-77 as 1 EB 269, Eff. 12-22-77

LEAST RESTRICTIVE ENVIRONMENT

Requirement for Least Restrictive Environment

581-15-059 School districts shall insure that:

(1) To the maximum extent appropriate, handicapped children are educated with children who are not handicapped and

(2) Removal of handicapped children from the regular educational environment in any way occurs only when the nature or severity of the handicap is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

Statutory Authority: ORS 343.055
Hist: Filed 12-22-77 as 1 EB 269, Eff. 12-22-77

Alternative Placements and Supplementary Services

581-15-060 School districts shall insure that a continuum of alternative placements is available to meet the needs of handicapped children for special education and related services, which continuum must:

(1) Include as alternative placements instruction in regular classes, special classes, special schools, home instruction and instruction in hospitals and institutions and

(2) Provide for supplementary services (such as resource room or itinerant instruction) to be provided in conjunction with regular class placement.

Statutory Authority: ORS 343.055
Hist: Filed 12-22-77 as 1 EB 269, Eff. 12-22-77

Placement of the Child

581-15-061 School districts shall insure that:

(1) Each handicapped child's educational placement:

(a) Is determined annually,

(b) Is based on his or her individualized education program and

(c) Is as close as possible to the child's home;

(2) The alternative placements under OAR 581-15-060 are available to the extent necessary to implement the individualized education program for each handicapped child;

(3) Unless a handicapped child's individualized educational program requires some other arrangement, the child is educated in the school which he or she would attend if not handicapped; and

(4) Consideration be given, in selecting the least restrictive environment, to any potential harmful effect on the child or on the quality of services which he or she needs.

Statutory Authority: ORS 343.055
Hist: Filed 12-22-77 as 1 EB 269, Eff. 12-22-77

Nonacademic Settings

581-15-062 School districts shall insure that each handicapped child participates with nonhandicapped children to the maximum extent appropriate to the needs of that child, in nonacademic and extracurricular services and activities.

Statutory Authority: ORS 343.055
Hist: Filed 12-22-77 as 1 EB 269, Eff. 12-22-77

EXECUTIVE ORDER NO. EO-77-22

DIRECTING COOPERATIVE AGREEMENTS BETWEEN DESIGNATED STATE AGENCIES AND THE DEPARTMENT OF EDUCATION

It appearing that there is a need to assure that each handicapped child in Oregon has the opportunity to receive appropriate education services, and the Superintendent of Public Instruction is responsible for the general supervision of all educational programs for handicapped children within the state, through the establishment of standards and criteria established by the Board of Education; now, therefore

IT IS HEREBY ORDERED AND DIRECTED that the following state agencies, and all other agencies that may be appropriate, shall enter into cooperative agreements with the Department of Education to achieve necessary uniformity in meeting the educational standards and criteria established by the State Board of Education for handicapped children in Oregon.

Department of Human Resources

Children's Services Division
Mental Health Division
Vocational Rehabilitation Division

Department of Higher Education

Crippled Children's Division

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the State of Oregon to be affixed this 28th day of October, 1977.

Governor

ATTEST:

Secretary of State

INTERAGENCY AGREEMENT
State of Oregon

COOPERATIVE AGREEMENT BETWEEN CHILDREN'S SERVICES DIVISION AND THE OREGON STATE DEPARTMENT OF EDUCATION:

WHEREAS:

Section III of Senate Bill 38 (Chapter 528 O.L. 1977) passed by the 1977 regular session of the Oregon Legislative Assembly, requires that the State Educational Agency shall be responsible for general supervision of all educational programs for handicapped children.

WHEREAS:

Section 121a600 of the P.L. 94-142 Regulations designates the State Educational Agency as the agency having overall responsibility for all educational programs for handicapped children, and

WHEREAS:

The Governor's Executive Order No. EO-77-22 directs that cooperative agreements between designated state agencies and the Department of Education be entered into to insure uniformity in meeting educational standards and criteria as established by the State Board of Education pertaining to the education of handicapped children.

THEREFORE:

The Children's Services Division agrees to the following:

1. The State Department of Education is responsible to provide general supervision of all education programs for handicapped children within the state to assure compliance with both state and federal statutes and regulations to the extent possible and within limits set by the Legislative Assembly.
2. The Children's Services Division will meet the educational standards of the State Board of Education as they pertain to the education and/or related services of handicapped children under the agency's jurisdiction.

3. The Children's Services Division will cooperate and assist the State Department of Education in on-site monitoring of the agency's programs to assure that State Board of Education standards are being met and that students and their parents are afforded all procedural safeguards. Activities in the monitoring procedure shall include, but not be limited to the following:

   a. The State Department of Education shall conduct an annual agency administrative review to determine if the agency's program is meeting State Board of Education standards.

   b. The State Department of Education shall conduct on-site program visits biennially to determine if programs are meeting State Board of Education Standards and to determine if individualized educational programs are being provided in conformance to the child's written IEP.

   c. The State Department of Education will provide fiscal and program audits annually regarding federal fund utilization for the provision of special education.

ACKNOWLEDGEMENT: Agency Officials

The signatures below indicate the endorsement of the above standards and this document shall be viewed as an interagency agreement concerning the conduct of special education in Oregon.

I. Joyce Carroll - Acting Administrator
Authorized Representative

Public Affairs Officer
Official Title - Children's Services Division

II. Verne A. Duncan
Authorized Representative

State Supt.
Official Title - State Department of Education

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INTERAGENCY AGREEMENT
STATE OF OREGON

COOPERATIVE AGREEMENT between the Mental Health Division, Department of Human Resources, and the Oregon State Department of Education.

WHEREAS Section 3 of Enrolled Senate Bill 38 (Chapter 528, Oregon Laws 1977), requires that the State Educational Agency shall be responsible for general supervision of all education programs for handicapped children;

WHEREAS Section 121a.600 of Public Law 94-142 Regulations designates the State Educational Agency as the agency having overall responsibility for all educational programs for handicapped children; and

WHEREAS the Governor's Executive Order No. EO-77-22 directs that cooperative agreements between designated state agencies and the Department of Education be entered into to ensure uniformity in meeting educational standards and criteria as established by the State Board of Education pertaining to the education of handicapped children;

THEREFORE, the Mental Health Division agrees to the following:

1. The State Department of Education is responsible for providing general supervision of all educational programs for handicapped children within the state to assure compliance with both state and federal statutes and regulations.

2. The Mental Health Division will meet the educational standards of the State Board of Education as they pertain to the education of, and/or related services to, handicapped children.

3. The Mental Health Division will cooperate and assist the State Department of Education in monitoring the agency's program to assure that State Board of Education standards are being met and that students and their parents are afforded all procedural safeguards. Activites in the monitoring procedure shall include, but shall not be limited to, the following:

a. The State Department of Education shall conduct an annual agency administrative review to determine if the agency's program is meeting State Board of Education standards.

b. The State Department of Education shall conduct on-site program visits to determine if programs are meeting State Board of Education standards and to determine if individualized educational programs are being provided in conformance with the child's written IEP.

c. The State Department of Education will audit annually federal fund utilization for the provision of special education.

ACKNOWLEDGMENT: The signatures below indicate endorsement of the above statements, and this document shall be viewed as an Interagency Agreement concerning the conduct of special education in Oregon.

MENTAL HEALTH DIVISION

By _____
for Assistant Director, DHR
Administrator of Mental Health

Dated January 18, 1978

STATE DEPARTMENT OF EDUCATION

By _____

Dated January 22, 1978

AGREEMENT BETWEEN
THE STATE OF OREGON
DEPARTMENT OF HUMAN RESOURCES
VOCATIONAL REHABILITATION DIVISION
AND
OREGON STATE DEPARTMENT OF EDUCATION

I. INTRODUCTION

The Vocational Rehabilitation Division of the Department of Human Resources and the Department of Education recognize that they have certain common responsibilities as providers of complementary human services for handicapped persons. Education agencies are concerned with the overall life adjustment of handicapped young persons within their communities, including their ability to become employed. The Vocational Rehabilitation Division is concerned with enabling handicapped individuals to engage in employment.

II. PURPOSE

This cooperative working relationship is entered into to develop and/or maintain a program to assist physically and/or mentally disabled vocationally handicapped youth to make a smooth transition from the school setting to employment in the adult community.

III. SERVICE PROVISIONS

A. Vocational Rehabilitation Division Responsibilities

The Vocational Rehabilitation Division is willing to enter into operational agreements with local school districts to provide vocational rehabilitation services for the transition of vocationally handicapped students from school to community consistent with available funds for serving handicapped persons and applicable state and federal laws and regulations.

In addition, the Vocational Rehabilitation Division of the Department of Human Resources will make consultation services available to local school districts and/or the Department of Education to assure that the educational services provided will complement VRD's subsequent provision of services as the student leaves the jurisdiction of the school program and enters the adult community.

The Vocational Rehabilitation Division will work cooperatively with the Department of Education to jointly implement the provisions of this agreement.

B. Department of Education Responsibilities

The Department of Education will work cooperatively with the Vocational Rehabilitation Division to jointly implement the provisions of this agreement.

The Department of Education will share information and data with the Vocational Rehabilitation Division as needed to implement this agreement.

IV. CIVIL RIGHTS

Both parties agree to the provisions of the Civil Rights Act of 1964, Section 601 and the Rehabilitation Act of 1973, Sections 503 and 504 as amended.

V. REVIEW

The Vocational Rehabilitation Division and the Department of Education will each appoint a representative who will meet at six-months intervals to review the implementation of the agreement and recommend any necessary changes to the agreement.

VI. RENEWAL/TERMINATION

This agreement may be cancelled with ninety (90) days written notification by either party. This agreement will remain in effect unless so cancelled.

VII. ACKNOWLEDGEMENT: Agency Officials

The signatures below indicate the endorsement of the above statements and this document shall be viewed as an interagency agreement concerning the conduct of special education and vocational rehabilitation in Oregon.

Carl A. Haugerud

Carl A. Haugerud, Administrator
Vocational Rehabilitation Division

DATE: January 13, 1978

Verne A. Duncan

Verne Duncan, Superintendent of Public Instruction, State Department of Education

DATE: January 22, 1978

PROTECTION IN EVALUATION PROCEDURES

Evaluation Required

581-15-071 Before any action is take with respect to the initial placement of a handicapped child in a special education program, a full individual evaluation of the child's educational needs must be conducted in accordance with OAR 581-15-072.

Statutory Authority: ORS 343.055
Hist: Filed 12-22-77 as 1 EB 269, Eff. 12-22-77

Evaluation Procedures

581-15-072 School districts shall insure that:

(1) Procedures and tests and other evaluation materials used for evaluating handicapped children:

(a) Are selected and administered so as not to be racially or culturally discriminatory,

(b) Are provided and administered in the child's native language or other mode of communication, unless it is clearly not feasible to do so,

(c) Have been validated for the specific purpose for which they are used and

(d) Are administered by trained personnel in conformance with the instructions provided by their producer.

(2) Tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient;

(3) Tests are selected and administered so as best to assure that, when a test is administered to a child with impaired sensory, manual or speaking skills, the test results accurately reflect the child's aptitude or achievement level or whatever factors the test purports to measure rather than reflecting the child's impaired skills, except where those skills are the factors which the test purports to measure;

(4) No single procedure is used as the sole criterion for determining an appropriate educational program for the child;

(5) The evaluation is made by a multidisciplinary team or group of persons, including at least one teacher or other specialist with knowledge in the area of suspected disability; and

(6) The child is assessed in all areas related to the suspected disability, including, where appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status and motor abilities.

Statutory Authority: ORS 343.055
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